

44-12-001-4924



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

SEP 27 2012

OFFICE OF THE  
CHIEF FINANCIAL OFFICER

The Honorable Harold Rogers  
Chairman  
Committee on Appropriations  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

I am transmitting the U.S. Environmental Protection Agency's response to the May 2012 Government Accountability Office report entitled, *Oil Dispersants: Additional Research Needed, Particularly on Subsurface and Arctic Applications* (GAO-12-585). The EPA prepared this response pursuant to 31 U.S.C. 720.

The EPA generally agrees with the findings and conclusions reached by the GAO. The final report included three recommendations, one of which was addressed to the EPA.

As the GAO's final report highlights, gaps remain in our knowledge about the application and effects of subsurface injection of dispersants to underwater blowouts and of the use of dispersants in Arctic environments. The EPA believes further research, in determining the extent of lasting dispersed oil during a simulated oil blowout, comparing chemically and physically dispersed oil, would be helpful. The EPA also recommends learning more about the differences in fluorescence properties between oil and dispersed oil, so that more informed decisions are possible during a deep-sea spill response. This recommendation is predicated on the fact that the fluorescence signal of chemically dispersed oil differs significantly from undispersed or physically dispersed oil. In addition, the EPA believes research is needed on the short and long-term toxicological effects of dispersants through direct and indirect exposures.

Studying the effects of dispersant use under Arctic conditions is of great importance. The EPA is actively engaged in conducting laboratory studies on the biodegradability of oils of various weights and viscosities, with and without the use of dispersants. This research is taking place now at cold and warm temperatures. Researchers in Canada have the same objectives and needs; we are collaborating with Canadian scientists and organizations to conduct important research in this and other oil spill related areas.

In addition, the EPA is collaborating with the member agencies of the National Response Team (NRT) and the Alaska Regional Response Team (ARRT) to understand the unique aspects of different oil spill situations, locations, and times of the year in the Arctic, with respect to the authorization and use of dispersants. This effort will inform and help prioritize research needs.

### **GAO Recommendation**

To enhance the knowledge of the effectiveness and potential environmental effects of chemical dispersants, we recommend that the Secretaries of Commerce and Interior, the Administrator of the EPA, and the Commandant of the Coast Guard direct their respective agencies, NOAA, BSEE, EPA, and Coast Guard, to coordinate and explore ways to better obtain more scientifically robust information during spills without hindering response efforts through enhancement of monitoring protocols and development of new data collection tools.

### **EPA Response**

The EPA is committed to coordinating with other agencies to better obtain more scientifically robust information during spills, by enhancing monitoring protocols and developing new data collection tools. The EPA has submitted two proposals to the Department of Interior's Bureau of Safety and Environmental Enforcement (BSEE), in response to a Broad Agency Announcement (BAA-BSEE Oil Spill Response Research- Solicitation # E12PS00012). The EPA is engaged with the Science and Technology Committee of the National Response Team, and discussions are being held to address new and improved fluorescence monitoring research and to develop a better understanding of deep-sea dispersant injection. Finally, the EPA will continue to engage the federal family, under the auspices of the Interagency Coordinating Committee on Oil Pollution Research, to enhance monitoring protocols and develop new data collection tools that can be used to obtain more scientifically robust information, without hindering response efforts, if, and when, a future spill occurs.

Thank you for the opportunity to respond to this recommendation. We appreciate the information and detailed feedback provided by the GAO concerning areas addressed in this audit. If you have any questions, please contact me or your staff may call Christina Moody, in the EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-0260.

Sincerely,

A handwritten signature in black ink, appearing to read 'B. J. Bennett', with a long horizontal flourish extending to the right.

Barbara J. Bennett  
Chief Financial Officer



AL 12-601-5650

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

SEP 14 2012

THE ADMINISTRATOR

The Honorable Harold Rogers  
Chairman  
Committee on Appropriations  
U.S. House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

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I am pleased to support the charter renewal of the National Environmental Justice Advisory Council in accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. 2. The National Environmental Justice Advisory Council is in the public interest and supports the U.S. Environmental Protection Agency in performing its duties and responsibilities.

I am filing the enclosed charter with the Library of Congress. The Committee will be in effect for two years from the date it is filed with Congress. After two years, the charter may be renewed as authorized in accordance with Section 14 of FACA (5 U.S.C. App. 2 § 14).

If you have any questions or require additional information, please contact me or your staff may contact Christina J. Moody in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-0260.

Sincerely

A handwritten signature in black ink, appearing to read "Lisa P. Jackson".

Lisa P. Jackson

Enclosure

# UNITED STATES ENVIRONMENTAL PROTECTION AGENCY CHARTER

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## NATIONAL ENVIRONMENTAL JUSTICE ADVISORY COUNCIL

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### 1. Committee's Official Designation (Title):

National Environmental Justice Advisory Council

### 2. Authority:

This charter renews the National Environmental Justice Advisory Council (NEJAC) in accordance with the requirements of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2. The NEJAC is in the public interest and supports the Environmental Protection Agency (EPA) in performing its duties and responsibilities.

### 3. Objectives and Scope of Activities:

The NEJAC will provide independent advice and recommendations to the Administrator about broad, crosscutting issues related to environmental justice. The NEJAC's efforts will include evaluation of a broad range of strategic, scientific, technological, regulatory, community engagement and economic issues related to environmental justice. The major objectives will be to provide advice and recommendations about EPA efforts to:

- a. Integrate environmental justice considerations into Agency programs, policies and activities
- b. Improve the environment or public health in communities disproportionately burdened by environmental harms and risks
- c. Address environmental justice to ensure meaningful involvement in EPA decision-making, build capacity in disproportionately-burdened communities, and promote collaborative problem-solving for issues involving environmental justice
- d. Strengthen its partnerships with other governmental agencies, such as other Federal agencies and state, tribal, or local governments, regarding environmental justice issues
- e. Enhance research and assessment approaches related to environmental justice

### 4. Description of Committees Duties:

The duties of the NEJAC are solely to advise the EPA.

### 5. Official(s) to Whom the Committee Reports:

The NEJAC will provide advice and recommendations, and report to the EPA Administrator through the Office of Environmental Justice, Office of Enforcement and Compliance Assurance.

**6. Agency Responsible for Providing the Necessary Support:**

EPA will be responsible for financial and administrative support. Within EPA, this support will be provided by the Office of Environmental Justice, Office of Enforcement and Compliance Assurance.

**7. Estimated Annual Operating Costs and Work Years:**

The estimated annual operating cost of the NEJAC is \$490,000, which includes 1.5 person-years of support.

**8. Designated Federal Officer:**

A full-time or permanent part-time employee of EPA will be appointed as the Designated Federal Officer (DFO). The DFO or a designee will be present at all of the meetings of the advisory committee and subcommittees. Each meeting will be conducted in accordance with an agenda approved in advance by the DFO. The DFO is authorized to adjourn any meeting when he or she determines it is in the public interest to do so, and will chair meetings when directed to do so by the official to whom the committee reports.

**9. Estimated Number and Frequency of Meetings:**

The NEJAC will meet approximately twice a year. Meetings may occur approximately once every six months or as needed and approved by the Designated Federal Officer (DFO), or his/her designee. EPA may pay travel and per diem expenses when determined necessary and appropriate.

As required by FACA, the NEJAC will hold open meetings, unless the EPA Administrator determines that a meeting or a portion of a meeting may be closed to the public in accordance with Subsection c of Section 552b of Title 5, United States Code. Interested persons may attend meetings, appear before the committee as time permits, and file comments with the NEJAC.

**10. Duration and Termination:**

The NEJAC will be examined annually and will exist until the EPA determines the Council is no longer needed. This charter will be in effect for two years from the date it is filed with Congress. After this two-year period, the charter may be renewed in accordance with Section 14 of FACA.

**11. Member Composition:**

The NEJAC will be composed of approximately 26 members who will serve as Representative members of non-federal interests, Regular Government Employees (RGEs), or Special Government Employees (SGEs). Representative members are selected to represent the points of view held by organizations, associations, or classes of individuals. In selecting members, EPA will consider candidates from among, but not limited to: community-based groups; industry and business; academic and educational institutions; State and local governments; indigenous organization and Federally-recognized tribal governments and Indigenous groups; and non-governmental and environmental groups, as deemed appropriate.

**12. Subgroups:**

EPA, or the NEJAC with EPA approval, may form subcommittees or work groups for any purpose consistent with this charter. Such subcommittees or work groups may not work independently of the chartered committee and must report their recommendations and advice to the NEJAC for full deliberation and discussion. Subcommittees or work groups have no authority to make decisions on behalf of the chartered committee nor can they report directly to the EPA.

**13. Recordkeeping:**

The records of the committee, formally and informally established subcommittees, or other subgroups of the committee, shall be handled in accordance with NARA General Records Schedule 26, Item 2 and EPA Records Schedule 181 or other approved agency records disposition schedule. Subject to the Freedom of Information Act, 5 U.S.C. 552, these records shall be available for public inspection and copying, in accordance with the Federal Advisory Committee Act.

August 30, 2012

Agency Approval Date

September 6, 2012

GSA Consultation Date

**SEP 14 2012**

Date Filed with Congress

AL 12-001-5661



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

SEP 14 2012

THE ADMINISTRATOR

The Honorable Harold Rogers  
Chairman  
Committee on Appropriations  
U.S. House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

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I am pleased to support the charter renewal of the Gulf of Mexico Citizen Advisory Committee in accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. 2. The Gulf of Mexico Citizen Advisory Committee is in the public interest and supports the U.S. Environmental Protection Agency in performing its duties and responsibilities.

I am filing the enclosed charter with the Library of Congress. The Committee will be in effect for two years from the date it is filed with Congress. After two years, the charter may be renewed as authorized in accordance with Section 14 of FACA (5 U.S.C. App. 2 § 14).

If you have any questions or require additional information, please contact me or your staff may contact Christina J. Moody in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-0260.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa P. Jackson".

Lisa P. Jackson

Enclosure

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY CHARTER

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GULF OF MEXICO CITIZEN ADVISORY COMMITTEE

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1. **Committee's Official Designation (Title):**

Gulf of Mexico Citizen Advisory Committee

2. **Authority:**

This charter is renewed in accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App.2. The committee was formerly named the Gulf of Mexico Executive Council. The Gulf of Mexico Citizen Advisory Committee (GMCAC) is in the public interest and supports the Environmental Protection Agency (EPA) in performing its duties and responsibilities under the Clean Water Act (CWA), as amended (33 U.S.C. 1251-1387).

3. **Objectives and Scope of Activities:**

In order to engage the public in actions to improve conditions of the Gulf of Mexico, the Administrator directed the establishment of the GMCAC.

The GMCAC will provide advice, information and recommendations to the Administrator on policy and technical issues associated with habitat conservation and restoration, improvements in water quality, and protection of living, coastal and marine resources of the Gulf of Mexico. The recommendations of the GMCAC also may potentially fulfill a need for public engagement to inform EPA's participation in implementing its responsibilities under the RESTORE Act. The GMCAC may advise on issues that cut across several program areas or initiatives that directly impact the Gulf.

The major objectives are to provide advice and recommendations and citizens' views on:

- a. Revitalizing and building resilient Gulf Coast communities to protect and sustain them against deteriorating environmental and economic conditions;
- b. Developing habitat conservation and restoration strategies and actions designed to restore and conserve key Gulf Coast habitats such as coastal wetlands, estuaries, barrier islands, upland habitats, seagrass beds, corals, and offshore habitats;
- c. Assessing and improving Gulf Coast water quality by reviewing watershed management practices and using careful science-based review and innovative approaches to enhance water quality; and



- d. Replenishing and protecting Gulf Coast living, coastal and marine resources by promoting resource management that focuses on the needs and functions of the ecosystem as a whole.

4. **Description of Committee's Duties:**

The duties of the GMCAC are solely to provide advice to the EPA.

5. **Official(s) to Whom the Committee Reports:**

The GMCAC will provide advice and recommendations and report to the EPA Administrator.

6. **Agency Responsible for Providing the Necessary Support:**

EPA will be responsible for financial and administrative support. Within EPA, this support will be provided by the Gulf of Mexico Program Office, Office of Water, Region 4, and Region 6.

7. **Estimated Annual Operating Costs and Work Years:**

The estimated annual operating cost of GMCAC and supporting committees is \$250,000 which includes 1.0 person-years of support.

8. **Designated Federal Officer:**

A full-time or permanent part-time employee of the EPA will be appointed as the Designated Federal Officer (DFO). The DFO or a designee will be present at all of the advisory committee and subcommittee meetings. Each meeting will be conducted in accordance with an agenda approved in advance by the DFO. The DFO is authorized to adjourn any meeting when he or she determines it is in the public interest to do so, and will chair meetings when directed to do so by the official to whom the committee reports.

9. **Estimated Number and Frequency of Meetings:**

The GMCAC is expected to meet as often as necessary, but at least quarterly (in person or via conference call). Meetings may occur approximately once every 3 months or as needed and approved by the DFO. The EPA may pay travel and per diem expenses when determined necessary and appropriate.

As required by FACA, the GMCAC will hold open meetings unless the EPA Administrator determines that a meeting or a portion of a meeting may be closed to the public in accordance with subsection c of Section 552b of Title 5, United States Code. Interested persons may attend meetings, appear before the committee as time permits, and file comments with the GMCAC.

**10. Duration and Termination:**

The GMCAC will be examined annually and will exist until the EPA determines the committee is no longer needed. This charter will be in effect for two years from the date it is filed with Congress. After the initial two-year period, the charter may be renewed as authorized in accordance with Section 14 of FACA.

**11. Member Composition:**

The chartered committee will be composed of approximately twenty-five (25) members who will serve as Representative members of non-federal interests, Regular Government Employees (RGEs), or Special Government Employees (SGEs). Representative members are selected to represent the points of view held by organizations, associations, or classes of individuals. In selecting members, the EPA will consider candidates who are citizens of the five Gulf coastal states (Alabama, Florida, Louisiana, Mississippi, and Texas).

**12. Subgroups:**

The EPA, or the GMCAC with the EPA's approval, may form subcommittees or workgroups for any purpose consistent with this charter. Such subcommittees or workgroups may not work independently of the chartered committee and must report their recommendations and advice to the GMCAC for full deliberation and discussion. Subcommittees or workgroups have no authority to make decisions on behalf of the chartered committee nor can they report directly to the Agency.

**13. Recordkeeping:**

The records of the committee, formally and informally established subcommittees, or other subgroups of the committee, shall be handled in accordance with NARA General Records Schedule 26, Item 2 and EPA Records Schedule 181 or other approved agency records disposition schedule. Subject to the Freedom of Information Act, 5 U.S.C. 552, these records shall be available for public inspection and copying, in accordance with the Federal Advisory Committee Act.

September 6, 2012

Agency Approval Date

September 7, 2012

GSA Consultation Date

**SEP 14 2012**

Date Filed with Congress

AL12-001-5663



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

SEP 28 2012

OFFICE OF THE  
CHIEF FINANCIAL OFFICER

The Honorable Harold Rogers  
Chairman  
Committee on Appropriations  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

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I am transmitting the U.S. Environmental Protection Agency's response to the July 2012 final report, "*HUMAN CAPITAL: HHS and EPA Can Improve Practices Under Special Hiring Authorities*" (GAO-12-692). The EPA prepared this response pursuant to 31 U.S.C. 720.

To help assure that the Department of Health and Human Services and the EPA follow applicable agency policy, guidance, and internal controls for appointments and compensation under Title 42 of the US Code of Federal Regulations, the GAO made four recommendations - one for the EPA and three for the HHS. This letter addresses the recommendation addressed to the EPA.

The EPA generally agrees with the findings and conclusions reached by the GAO on the agency's appointment and compensation practices. As the GAO's report highlights, the EPA has followed its policies and guidance in operating its Title 42 program and even requires an ethics review of candidates. The agency appreciates the GAO's recognition of how the *EPA Title 42 Operations Manual* provides guidance for managers, supervisors, and human resources specialists on implementing the Title 42 program. Also, the EPA agrees with the GAO's assessment of our effort to incorporate modifications to our policy and guidance based on the recommendations made by the National Academies of Science in its 2009-2010 review of the program. In the NAS 2010 report, *The Use of Title 42 Authority at the U.S. Environmental Protection Agency*, the NAS commended the EPA's use of its Title 42 authority, concluding that the "EPA has approached the use of Title 42 authority prudently," and that the "EPA be granted expanded authority to define the number of Title 42 positions on the basis of its programmatic needs and available budget."

However, the EPA still has significant concerns with respect to the GAO's understanding of ethics requirements in the Executive Branch based on the analysis GAO included in the final report. Within the EPA, the Office of General Counsel's Ethics Team reviews every public financial disclosure report filed in the EPA, including those for Title 42 candidates. The Ethics Team identifies potential areas of financial conflict and writes to the filer. Prior to the issuance of the GAO's draft and final reports, the EPA had already instituted an additional step in its ethics process which now includes copying the Deputy Ethics Officials when cautionary memoranda are issued to public filers in their organizations. In addition, the Ethics Team is now drafting the screening arrangements for each candidate rather than relying solely on the filer or his/her DEO. The EPA believes that these measures significantly assist in

amplifying and addressing ethics issues that may arise after appointment. Previously, the filer was simply informed of his or her ethical considerations and expected to adhere to the necessary requirements like other employees. Given the nature and prominence of the Title 42 positions, the Ethics Team has added additional levels of centralized scrutiny. In addition, as a policy matter, the EPA now requires additional annual ethics training for all of its Title 42 employees, designed to focus on ethics issues of particular concern to them. This requirement is above and beyond the annual training requirement set forth at 5 C.F.R. § 2638.704. This additional mandatory ethics training has already been implemented for all of the current Title 42 employees. Finally, the Office of Research and Development, in which all the Title 42 positions reside within the EPA, has taken several steps to incorporate ethics more firmly and rigorously into its programmatic framework. For example, the ORD has designated a national ethics program coordinator to work closely with the OGC on ethics issues affecting the ORD as a whole, including arranging for the additional mandatory training and undertaking a re-examination of which Title 42 positions in the ORD should be designated as DEOs.

### **GAO Recommendation**

To help improve enforcement of ethics requirements, the Administrator of the EPA should direct the Designated Agency Ethics Official to, as part of its efforts to improve postappointment ethics oversight, develop and document a systematic approach for ensuring Title 42 employees are compliant with ethics requirements after appointment; and implement, as part of this approach, reported plans to require Title 42 employees to provide proof of compliance with ethics agreements to a designated ethics official within a reasonable timeframe after appointment.

### **EPA Response**

As described above, the OGC/Ethics sent a letter to the GAO on February 17, 2012, that outlined plans the EPA had implemented to address ethics issues that arise after appointment and to ensure that previously stipulated ethics requirements are followed. One concrete measure outlined by the EPA in that letter was to implement a process for public filers, including employees hired under the Title 42 special hiring authority, to send OGC/Ethics (in addition to their own Deputy Ethics Official) confirmation of stock divestitures, for example, and signed recusals. EPA has already implemented this process. EPA notes that the passage of the STOCK Act, Public Law 112-105, will require public filers to report periodically certain transactions, and EPA will publish them to the internet.

Thank you for the opportunity to respond to this recommendation. We appreciate the information and detailed feedback provided by the GAO concerning areas addressed in this audit. If you have any questions, please contact me or your staff may call Christina Moody, in the EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-0260.

Sincerely,



Barbara J. Bennett  
Chief Financial Officer

AL-12-001-5642



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
WASHINGTON, D.C. 20460

**SEP 28 2012**

OFFICE OF THE  
CHIEF FINANCIAL OFFICER

The Honorable Harold Rogers  
Chairman  
Committee on Appropriations  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

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I am transmitting the U.S. Environmental Protection Agency's response to the July 2012 Government Accountability Office report entitled, *IT Cost Estimation: Agencies Need to Address Significant Weaknesses in Policies and Practices* (GAO-12-629). The EPA prepared this response pursuant to 31 U.S.C. 720.

To help improve federal government cost estimating practices, the GAO made two recommendations to several federal agencies including the EPA, and a third recommendation to the United States Department of Defense.

**GAO Recommendations**

To address weaknesses identified in agencies' policies and practices for cost estimating, we are making the following recommendations:

We recommend that the Secretaries of Agriculture, Commerce, Homeland Security, Labor, and Veterans Affairs, the Attorney General, and the Administrator of the Environmental Protection Agency direct responsible officials to modify policies governing cost estimating to ensure that they address the weaknesses that we identified.

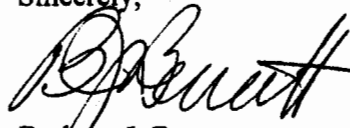
We also recommend that the Secretaries of Agriculture, Commerce, Homeland Security, Labor, and Veterans Affairs, the Attorney General, the Administrator of the Environmental Protection Agency, and the Director of the Pension Benefit Guaranty Corporation direct responsible officials to update future life-cycle cost estimates of the system acquisition programs discussed in this report using cost-estimating practices that address the detailed weaknesses that we identified.

## **EPA Response**

The EPA recognizes the GAO's comment that "agency policies did not require cost-estimating best practices." We believe that the *GAO Cost Estimating Guide: Best Practices for Developing and Managing Capital Program Costs*, GAO-09-3SP (Washington, DC: March 2009) is a valuable resource. In recognition of the GAO's comment, the EPA will update its Systems Life Cycle Management procedures, as suggested. We anticipate that the revised SLCM procedure will have concluded the agency formal review in accordance with the EPA's Chief Information Officer Policy Review Process and will be ready for approval by the end of the calendar year 2012.

Thank you for the opportunity to respond to this recommendation. We appreciate the information and detailed feedback provided by the GAO concerning areas addressed in this audit. If you have any questions, please contact me or your staff may call Christina Moody, in the EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-0260.

Sincerely,

A handwritten signature in black ink, appearing to read 'B. Bennett', written over a horizontal line.

Barbara J. Bennett  
Chief Financial Officer

AL 14-000-7324



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

AUG - 8 2013

OFFICE OF THE  
CHIEF FINANCIAL OFFICER

The Honorable Harold Rogers  
Chairman  
Committee on Oversight and Government Reform  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

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I am transmitting the U.S. Environmental Protection Agency's response to the March 2013 Government Accountability Office report entitled, *Toxic Substances: EPA Has Increased Efforts to Address and Control Chemicals but Could Strengthen Its Approach* (GAO-13-249). The EPA prepared this response pursuant to 31 U.S.C. 720.

The EPA appreciates the significant amount of time the GAO staff spent on this audit and their efforts to learn the intricacies of the Toxic Substances Control Act and the associated EPA program that implements the statute. The agency believes the report generally reflects the challenges the EPA faces in implementing TSCA. As highlighted in the report, the agency has taken a number of steps over the past few years to strengthen the EPA's existing chemicals program and make information on chemicals more readily available. While progress has been made, it may take some time before the results of our efforts come into fruition and can be truly evaluated.

The agency also appreciates the intent of the GAO's recommendations with respect to improving the chemicals program under the current TSCA legislative framework, and we will consider them as we further develop and implement the program. However, as the EPA has indicated publicly and as highlighted in the GAO report, we cannot be fully successful in ensuring the safety of chemicals absent statutory reform of this badly outdated chemicals management legislation.

The EPA further appreciates the GAO's comments in the final report on the EPA's response to the report's primary recommendations: 1) to develop TSCA Section 8 rules for industry data submitted under the European Community Registration, Evaluation, Authorization and Restriction of Chemical substances regulation<sup>1</sup>; 2) to develop a TSCA Section 8 rule for exposure related information from processors; and 3) to utilize strategic planning to address the challenges of implementing TSCA.

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<sup>1</sup> REACH is the European Community Regulation on chemicals and their safe use ([EC 1907/2006](#)). It deals with the Registration, Evaluation, Authorization and Restriction of Chemical substances. The law entered into force on 1 June 2007.

### **GAO Recommendation**

To better position EPA to collect chemical toxicity and exposure-related data and ensure chemical safety under existing TSCA authority, while balancing its workload, the Administrator of EPA should consider promulgating a rule under TSCA section 8, or take action under another section, as appropriate, to require chemical companies to report chemical toxicity and exposure-related data they have submitted to the European Chemicals Agency.

### **EPA Response**

The EPA shares the GAO's view that it is important to reduce the development and reporting of duplicative toxicity information from industry. The agency also believes it is important to take a targeted approach to data requirements that use both government and industry resources efficiently. For example, when the EPA identifies a specific need for data available in the REACH database, the agency intends to pursue these data from U.S. companies voluntarily. If U.S. companies are unable or unwilling to provide the REACH data voluntarily, the EPA will take regulatory action such as issuing subpoenas under Section 11 of TSCA, requiring submission of the data. The EPA is currently developing risk assessments on a number of priority chemicals and has identified data that has been submitted under the REACH program. The EPA has contacted the industry consortia who submitted these data to work with them on voluntarily submitting this information.

### **GAO Recommendation**

To better position EPA to collect chemical toxicity and exposure-related data and ensure chemical safety under existing TSCA authority, while balancing its workload, the Administrator of EPA should consider promulgating a rule under TSCA section 8, or take action under another section, as appropriate, to require chemical companies to report exposure-related data from processors to EPA.

### **EPA Response**

The agency also agrees with the GAO on the importance of considering exposure information when making determinations on chemical risks. The EPA is also committed to working toward improving the quality of use and exposure information available to our chemical risk assessments and again in the targeted approach described in the agency response to the recommendation above. As specific needs are identified, we will use both voluntary and regulatory means as necessary to obtain the needed data from manufacturers and processors.

### **GAO Recommendation**

To better position EPA to collect chemical toxicity and exposure-related data and ensure chemical safety under existing TSCA authority, while balancing its workload, and to better position EPA to ensure chemical safety under existing TSCA authority, the Administrator of EPA should direct the appropriate offices to develop strategies for addressing challenges that impede the agency's ability to meet its goal of ensuring chemical safety. At a minimum, the strategies should address challenges associated with:

- obtaining toxicity and exposure data needed to conduct ongoing and future TSCA Work Plan risk assessments,
- gaining access to toxicity and exposure data provided to the European Chemicals Agency,



- working with processors and processor associations to obtain exposure-related data,
- banning or limiting the use of chemicals under section 6 of TSCA and planned actions for overcoming these challenges—including a description of other actions the agency plans to pursue in lieu of banning or limiting the use of chemicals, and
- identifying the resources needed to conduct risk assessments and implement risk management decisions in order to meet its goal of ensuring chemical safety.

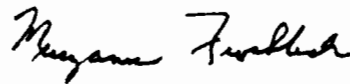
### **EPA Response**

The GAO recommended that the EPA develop strategies to address the challenges that impede the agency's ability to meet our goals of ensuring chemical safety. The agency believes that we cannot fully ensure the American public that the chemicals in the products they and their families use are safe until TSCA is updated. The Administration's principles for TSCA reform outline the basic changes that we believe are necessary for a fully successful program. The EPA agrees with the GAO that change is needed in every significant aspect of the program and the EPA is hopeful that legislative reform will address these issues. While the EPA does not believe that strategic planning can substitute for legislative reform, the agency is taking a strategic approach to our efforts to enhance our current program to the fullest extent possible. This approach includes identifying chemicals for risk assessment over the coming years, increasing access to chemical information, and advancing innovation for safer products and greener chemistry.

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Again, we appreciate the significant effort that the GAO committed to this report and we look forward to continuing to discuss these matters with the GAO and members of Congress. If you have any further questions, please contact me or your staff may call Christina Moody, in the EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-0260.

Sincerely,



Maryann Froehlich  
Acting Chief Financial Officer

AL 14-000-2339

**Congress of the United States**  
**Washington, DC 20515**

Cynthia Giles  
Assistant Administrator, Office of Enforcement and Compliance Assurance  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Mail Code: 2201A  
Washington, DC 20460

Janet McCabe  
Assistant Administrator, Office of Air and Radiation  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue NW  
Mail Code: 6101A  
Washington, DC 20460

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November 22, 2013

Re: Diesel Hardship Flexibility

Dear Assistant Administrators Giles and McCabe:

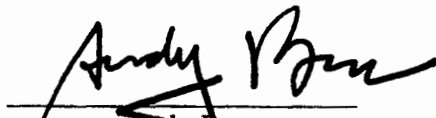
We are writing on behalf of two Kentucky companies – Link-Belt Construction Equipment Company (LBCE) and LBX Company (LBX), which together employ 850 people in Lexington, Kentucky. LBCE and LBX design, build, and supply mobile cranes, excavators, forestry, and scrap/material handling equipment. Unfortunately, these companies have experienced substantial delays in obtaining the engines necessary to meet the Environmental Protection Agency's (EPA) Tier 4 standard. We have been concerned that the companies' inability to meet the Tier 4 standard would force them to cancel existing orders, thereby creating substantial disruptions in the supply of critical equipment as well as the loss of jobs at the affected manufacturers and their dealers and distributors. It is our understanding, however, that your Agency has approved an alternative approach that will allow LBCE and LBX to meet their short-term obligations.

We are encouraged by this recent development and urge EPA to continue to work cooperatively with our constituents to achieve a more long-term hardship solution. More specifically, it is our understanding that EPA will soon publish a proposed rule revising current hardship regulations to remove unnecessary restrictions, provide needed flexibility, and create additional discretion to grant "technical hardship requests." Regardless of our varying views of EPA's Tier 4 standards, we agree that this rulemaking should be completed as expeditiously as possible to help prevent unnecessary economic hardship for companies working to meet these engine requirements. Additionally, during this transition period, we hope EPA will continue to

work constructively with LBCE and LBX. We feel it is in everyone's best interest to arrive at a long-term hardship solution that minimizes any disruptions in the supply of this critical equipment and, more importantly, reduces the risk of any potential job losses.

Thank you for your ongoing efforts and for your consideration of this request. If you have any questions or concerns, please contact Travis Cone in Congressman Barr's office at (202) 225-4706 or at [travis.cone@mail.house.gov](mailto:travis.cone@mail.house.gov).

Sincerely,

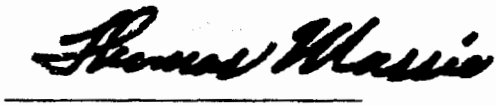
  
Andy Barr  
MEMBER OF CONGRESS


  
Harold Rogers  
MEMBER OF CONGRESS

  
Ed Whitfield  
MEMBER OF CONGRESS

  
John Yarmuth  
MEMBER OF CONGRESS

  
Brett Guthrie  
MEMBER OF CONGRESS

  
Thomas Massie  
MEMBER OF CONGRESS





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

MAR 27 2014

ASSISTANT ADMINISTRATOR  
FOR ENFORCEMENT AND  
COMPLIANCE ASSURANCE

The Honorable Harold Rogers  
U.S. House of Representatives  
Washington, D.C. 20515


Dear Congressman Rogers:

Thank you for your November 22, 2013, letter concerning Link-Belt Construction Equipment Company (LBCE) and LBX Company (LBX). In your letter, you expressed concern about the non-availability of nonroad compression-ignition engines that meet the Clean Air Act Tier 4 standards. You also urged the U.S. States Environmental Protection Agency (EPA) to establish hardship exemptions so that LBCE and LBX may obtain exempted engines until Tier 4 compliant engines are available.

I am pleased to report that the EPA published the regulations to establish a permanent technical hardship exemption on February 6, 2014, effective immediately. Prior to issuing the regulations, the EPA engaged in discussion with the regulated industry, including the Association of Equipment Manufacturers (AEM). Subsequently, the status and details of the technical hardship exemption rulemaking were communicated to the AEM as well as to the counsel representing LBCE and LBX in this matter.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Carolyn Levine in the EPA's Office of Congressional and Intergovernmental Relations at [levine.carolyn@epa.gov](mailto:levine.carolyn@epa.gov) or (202) 564-1859.

Sincerely,

  
Cynthia Giles



Recycled/Recyclable  
Printed with Soy/Canola Ink on paper that

AL 14-000-2475



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OFFICE OF THE  
CHIEF FINANCIAL OFFICER

The Honorable Harold Rogers  
Chairman  
Committee on Appropriations  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

I am transmitting the U.S. Environmental Protection Agency's response to the August 2013 Government Accountability Office report entitled, *Environmental Health: EPA Has Made Substantial Progress but Could Improve Processes for Considering Children's Health* (GAO-13-254). The EPA prepared this response pursuant to 31 U.S.C. 720. The EPA generally agrees with the GAO's report findings, conclusions, and recommendations.

Since its inception, the EPA has made protecting children's environmental health part of our mission. As the report highlights, the agency has made substantial progress in its effort to consider children's health. Since the March 2010 GAO report, the Office of Children's Health Protection was reorganized to increase the agency's focus on children's health. Prior to the reorganization, the OCHP's mission was broader and included a focus on both aging and environmental education. Also, in February 2010, the EPA Administrator issued a memorandum that reaffirmed the agency's commitment to children's health.

As recommended by the GAO, the agency-wide strategic plan for fiscal years 2011-2015 identifies children's health as a top priority. In addition, the agency more specifically discusses how it plans to address children's health in the Cross-Cutting Fundamental Strategy: Working for Environmental Justice and Children's Health. Each year an action plan is developed that lists specific tasks that will be taken in carrying out the principles of the cross-cutting strategy. The OCHP also finalized an office strategic plan for fiscal years 2011-2013. The plan defines a vision and mission for the office, establishes goals and objectives for their implementation, and describes measures for evaluating progress.

The GAO correctly points out that the OCHP has also strengthened its relationships with external partners. The OCHP proactively uses the Children's Health Protection Advisory Committee to provide advice on regulations, policies and other issues. Furthermore, the OCHP has actively participated in the interagency organizations initiated under Executive Order 13045 (the President's Task Force on Environmental Health Risks and Safety Risks to Children and the Federal Interagency Forum on Child and Family Statistics).

importance of using applicable guidance, and reiterate EPA's commitment to protecting children's health.

EPA Response: The EPA concurs with the idea of reaffirming the 1995 Policy. On October 31, 2013, Administrator McCarthy reaffirmed the 1995 policy through a memorandum distributed to senior managers. The agency believes this reaffirmation could be a periodic activity; by so doing, the policy never goes out of date and is routinely highlighted as an agency priority.

GAO Recommendation: The EPA Administrator should direct OCHP and OPP to establish procedures to identify tolerance decisions that could pose a significant risk to children's health and provide opportunities for OCHP involvement consistent with the Administrator's 2010 memorandum.

EPA Response: The EPA acknowledges the need for continued coordination and improved communication between the OCHP and the Office of Pesticide Programs. The framework within which pesticide tolerance setting occurs was established after the passage of the FQPA in 1996, and incorporated intra-agency participation and federal advisory committee consultation, including consultation with the Scientific Advisory Panel and the Pesticide Program Dialogue Committee. This groundwork resulted in a policy and scientific framework that continues to be protective of children's health. Although OCHP does not participate in each tolerance decision, the OPP continues to employ the framework to ensure that decisions appropriately consider children's health. The OCHP and the OPP are committed to ensuring that the EPA fully complies with its 1995 policy and have already begun to discuss ways to improve coordination, information sharing, prioritization and communication. The two organizations plan to document the agreement that is reached, thereby ensuring continued and consistent implementation.

We appreciate the significant effort that the GAO committed to this report and we look forward to continuing to discuss these matters with the GAO and members of Congress. If you have any further questions, please contact me or your staff may contact Carolyn Levine in the EPA's Office of Congressional and Intergovernmental Relations, by phone at (202) 564-1859, or by email at [levine.carolyn@epa.gov](mailto:levine.carolyn@epa.gov).

Sincerely,



Maryann Froehlich  
Acting Chief Financial Officer

Enclosure



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

DEC 23 2013

OFFICE OF THE  
CHIEF FINANCIAL OFFICER

The Honorable Harold Rogers  
Chairman  
Committee on Appropriations  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

I am transmitting the U.S. Environmental Protection Agency's response to the August 2013 Government Accountability Office report entitled, *Environmental Health: EPA Has Made Substantial Progress but Could Improve Processes for Considering Children's Health* (GAO-13-254). The EPA prepared this response pursuant to 31 U.S.C. 720. The EPA generally agrees with the GAO's report findings, conclusions, and recommendations.

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The GAO correctly points out that the OCHP has also strengthened its relationships with external partners. The OCHP proactively uses the Children's Health Protection Advisory Committee to provide advice on regulations, policies and other issues. Furthermore, the OCHP has actively participated in the interagency organizations initiated under Executive Order 13045 (the President's Task Force on Environmental Health Risks and Safety Risks to Children and the Federal Interagency Forum on Child and Family Statistics).

The GAO's review of children's health in regulatory efforts at the EPA focused on two statutory requirements – the Safe Drinking Water Act and the Food Quality Protection Act – and the OCHP's role in developing drinking water standards and pesticide tolerance decisions with adequate margins of safety. The report also discussed where children are considered in the agency's Action Development Process. We agree with the report's conclusions that the OCHP has played a more active role in the SDWA actions but additional efforts are needed regarding the FQPA actions.

The report also highlights the work the OCHP has done with external partners to leverage resources to better protect children's health, including work with the Centers for Disease Control and Prevention's Agency for Toxic Substances and Disease Registry to support Pediatric Environmental Health Specialty Units throughout the country.

While the EPA generally agrees with the recommendations of the GAO, we believe that some aspects of the report mischaracterize and under-emphasize important strides that have been taken to protect children.

The GAO has made four recommendations to the Administrator of the Environmental Protection Agency in this report. The GAO's recommendations and the EPA's responses follow below.

GAO Recommendation: The EPA Administrator should make children's health training that includes how to respond to the screening questions a priority for rule writers.

EPA Response: The EPA is committed to exploring ways to educate rule writers. The OCHP worked with the EPA's Office of Policy and Office of Environmental Justice to create the children's health segment of the (regulatory) *Action Development at EPA* training course. This portion of the course targets new EPA rule writers and provides guidance on methods for ensuring children's unique vulnerabilities are appropriately considered in the EPA's regulatory actions. In the FY 2013 Action Plan for the agency's *Cross Cutting Fundamental Strategy: Working for Environmental Justice and Children's Health*, the OCHP was tasked with developing an additional webinar-based training available to all EPA staff, but targeting rule developers. The purpose of this training is to enhance the understanding of how to apply children's environmental health principles within the EPA's regulatory process. The training course development was completed in July 2013 following an internal review. The first webinar was held September 24, 2013. Both courses cover how to respond to children's health screening questions in the agency's Action Development Process. The OCHP believes that this combination of classes will help to ensure that rule writers are properly trained.

GAO Recommendation: The EPA Administrator should require lead program offices to document their decisions in rulemakings and other actions regarding how health risks to children were considered (e.g., conducting a children's risk assessment) and that their decisions are consistent with EPA's children's health policy.

EPA Response: The EPA agrees with the importance of ensuring that decisions regarding children's health risks in rulemakings are consistent with the EPA's policy on children's health and documenting those decisions. The OCHP will continue to work with the Office of Policy and other agency program offices to assure a consistent approach for documenting these decisions as a part of the Action Development Process at the EPA.

GAO Recommendation: The EPA Administrator should reaffirm the 1995 Policy on Evaluating Health Risks to Children to clarify the intent of the policy to reflect the best available science, emphasize the



importance of using applicable guidance, and reiterate EPA's commitment to protecting children's health.

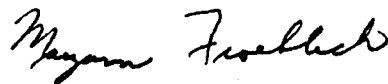
EPA Response: The EPA concurs with the idea of reaffirming the 1995 Policy. On October 31, 2013, Administrator McCarthy reaffirmed the 1995 policy through a memorandum distributed to senior managers. The agency believes this reaffirmation could be a periodic activity; by so doing, the policy never goes out of date and is routinely highlighted as an agency priority.

GAO Recommendation: The EPA Administrator should direct OCHP and OPP to establish procedures to identify tolerance decisions that could pose a significant risk to children's health and provide opportunities for OCHP involvement consistent with the Administrator's 2010 memorandum.

EPA Response: The EPA acknowledges the need for continued coordination and improved communication between the OCHP and the Office of Pesticide Programs. The framework within which pesticide tolerance setting occurs was established after the passage of the FQPA in 1996, and incorporated intra-agency participation and federal advisory committee consultation, including consultation with the Scientific Advisory Panel and the Pesticide Program Dialogue Committee. This groundwork resulted in a policy and scientific framework that continues to be protective of children's health. Although OCHP does not participate in each tolerance decision, the OPP continues to employ the framework to ensure that decisions appropriately consider children's health. The OCHP and the OPP are committed to ensuring that the EPA fully complies with its 1995 policy and have already begun to discuss ways to improve coordination, information sharing, prioritization and communication. The two organizations plan to document the agreement that is reached, thereby ensuring continued and consistent implementation.

We appreciate the significant effort that the GAO committed to this report and we look forward to continuing to discuss these matters with the GAO and members of Congress. If you have any further questions, please contact me or your staff may contact Carolyn Levine in the EPA's Office of Congressional and Intergovernmental Relations, by phone at (202) 564-1859, or by email at [levine.carolyn@epa.gov](mailto:levine.carolyn@epa.gov).

Sincerely,



Maryann Froehlich  
Acting Chief Financial Officer

Enclosure

AL 14-001-3038



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

AUG 12 2014

OFFICE OF THE  
CHIEF FINANCIAL OFFICER

The Honorable Harold Rogers  
Chairman  
Committee on Appropriations  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

I am transmitting the U.S. Environmental Protection Agency's response to the May 2014 Government Accountability Office report entitled, *Pesticide Safety: Improvements Needed in EPA's Good Laboratory Practice Inspection Program* (GAO-14-289). The EPA prepared this response pursuant to 31 U.S.C. 720.

The Environmental Protection Agency generally agrees with the GAO's findings, conclusions and recommendations in this report. The responses below address each individual GAO recommendation.

**GAO Recommendation:**

To improve the [agency's Office of Enforcement and Compliance Assurance Good Laboratory Practices] inspection process, the EPA Administrator should assess the authority and need for a fee-based inspection system, and if such a system is warranted, establish a user fee system, seeking additional legislative authority, if necessary, to make the laboratory inspection program self-sustaining.

**EPA Response:**

The EPA agrees with the recommendation. The agency agrees to assess the authority, need and feasibility of a fee-based system, and if warranted, begin taking the appropriate (including legal) steps necessary to establish such a user fee system.

**GAO Recommendation:**

To improve the OECA GLP inspection process, the EPA Administrator should direct OECA and [Office of Pesticide Programs] to ascertain the exact causes of inaccurate and incomplete data in its databases and take action to ensure that the data, such as identification of performing laboratories and inspection history, are accurately recorded.

**EPA Response:**

The EPA agrees to ascertain the exact causes of inaccurate and incomplete data and to take action to ensure that the data are accurately recorded.

**GAO Recommendation:**

To improve the OECA GLP inspection process, the EPA Administrator should direct OECA and OPP to develop documented procedures to coordinate and prioritize laboratories for inspections.

**EPA Response:**

The EPA agrees to develop written procedures for coordination and prioritization of GLP inspections between OECA and OPP.

**GAO Recommendation:**

In addition, the EPA Administrator and the [Food & Drug Administration] Commissioner should develop a formal written agreement, such as a memorandum of understanding, that outlines how the two agencies plan to regularly collaborate and share information on GLP inspections and avoid duplication of inspections so that EPA can more efficiently use its limited resources.

**EPA Response:**

The EPA agrees with the recommendation and will work with the FDA to develop a written standard operating procedure for collaboration between the two GLP programs.

The EPA appreciates GAO's feedback on opportunities to improve its Good Laboratory Practice inspection program. The EPA is committed to acting on those recommendations as described above. If you have any further questions, please contact me or your staff may contact Christina Moody in the EPA's Office of Congressional and Intergovernmental Relations, by phone at (202) 564-0260, or by email at [moody.christina@epa.gov](mailto:moody.christina@epa.gov).

Sincerely,



Maryann Froehlich  
Acting Chief Financial Officer

AL 13-000-2583



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

MAR 07 2013

OFFICE OF THE  
CHIEF FINANCIAL OFFICER

The Honorable Harold Rogers  
Chairman  
Committee on Appropriations  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

I am transmitting the U.S. Environmental Protection Agency's response to the July 2012 Government Accountability Office report entitled, *EPA Regulations and Electricity: Better Monitoring by Agencies Could Strengthen Efforts to Address Potential Challenges* (GAO-12-635). The EPA prepared this response pursuant to 31 U.S.C. 720.

In its review, the GAO examined (1) actions power companies may take in response to four final or proposed EPA regulations applicable to power plants;<sup>1</sup> (2) the potential electricity market and reliability implications of such actions; and (3) the extent to which these implications can be mitigated.

The EPA appreciates the GAO's attention to the important issues surrounding implementation of the agency's power plant rules and their effect on the electricity market and the power system. These rules will provide very substantial public health benefits and important environmental protections. As the GAO report acknowledges, the rules are being implemented during a period of significant change in the power sector, driven, in large part, by a substantial decline in natural gas prices, rising coal prices, and reduced demand for electricity. In addition, a majority of coal plants in the fleet have been in service for 40 years or longer, and many of these older plants are significantly less efficient than newer generation, resulting in very low utilization rates. As a result, the owners of some coal- and oil-fired power plants appear to be finding that these plants' revenues no longer cover their operating costs, leading, in turn, to business decisions to retire these plants. In a separate report, the GAO found that coal-fueled units being retired tend to be "older, smaller and more polluting" than units not retiring.<sup>2</sup>

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<sup>1</sup> The relevant rules are the final Mercury and Air Toxics Standards and the final Cross-State Air Pollution Rule under the Clean Air Act, the proposed cooling water intake structures rule under section 316(b) of the Clean Water Act, and the proposed coal combustion residuals rule under the Resource Conservation and Recovery Act. Since the GAO report was issued, the U.S. Court of Appeals for the D.C. Circuit on August 21, 2012, issued an opinion that would vacate the Cross State Air Pollution Rule. On January 24, 2013, the court denied the EPA's petition for rehearing en banc of that decision. In addition, the expected date for signature of the cooling water intake structure rule under section 316(b) of the Clean Water Act has been extended to June 2013.

<sup>2</sup> GAO, "Significant Changes Are Expected in Coal-Fueled Generation, but Coal is Likely to Remain a Key Fuel Source" (GAO-13-72) (Oct. 2012).

The GAO has made two recommendations in this report, the first is addressed to the Chairman of the Federal Energy Regulatory Commission, the Secretary of Energy, and the Administrator of the EPA and the second is directed solely to the Chairman of FERC. The GAO's first recommendation and the EPA's response follow below.

### **GAO Recommendation**

To further strengthen agency efforts to understand whether existing tools are adequate, or additional tools are needed, we recommend that the Chairman of FERC, the Secretary of Energy, and the Administrator of the EPA develop and document a formal, joint process consistent with each agencies' respective statutory authorities to monitor industry's progress in responding to the EPA regulations until at least 2017. Each agency, to the extent practical, should leverage resources and share the results of its efforts with the other agencies. The agencies should consider providing Congress with the results of their monitoring efforts, including whether additional statutory authority is needed to address any potential adverse implications.

### **EPA Response**

The EPA, the DOE and FERC have taken a number of steps to assure that the relevant EPA rules do not interfere with electric reliability. Before the Mercury and Air Toxics Standards rule was finalized, the EPA and the DOE both conducted analyses of electric generation resources.<sup>3</sup> The EPA and the DOE modeling indicated that regional resource adequacy problems as a consequence of MATS and the Cross State Air Pollution Rule were unlikely. The GAO's assessment of the available studies concluded that "[t]he actions power companies take in response to the four key EPA regulations are not likely to cause widespread reliability challenges...."<sup>4</sup> Nevertheless, the agencies recognized the potential for localized reliability challenges and, accordingly, have focused on working with utilities and grid planning organizations to help them anticipate and proactively address any such issues that may arise.

The EPA appreciates the GAO's recommendation that we work with the DOE and FERC to further coordinate, formalize and document our ongoing activities to monitor industry's progress with regard to the implementation of the EPA regulations and to share information among the three agencies. This effort is already underway and the agencies' coordination, outreach and monitoring efforts have grown progressively more extensive and regularized over time.

Consistent with the Presidential Memorandum issued on December 21, 2011, entitled "Flexible Implementation of the Mercury and Air Toxics Standards Rule," the EPA has offered flexibility in compliance timing where a serious risk to electric reliability has been identified. Further, the three agencies have developed a coordinated approach to engagement with grid planning authorities, state public utility commissions, and a range of other power sector stakeholders to support early and coordinated planning and implementation of MATS and other regulatory requirements in a manner that maintains electric reliability. The agencies are monitoring the implementation of MATS, primarily through regular communication with the Regional Transmission Organizations and other planning

<sup>3</sup> Environmental Protection Agency (2011). "Resource Adequacy and Reliability in the IPM Projections for the MATS Rule" [http://www.epa.gov/ttn/atw/utility/revised\\_resource\\_adequacy\\_tsd.pdf](http://www.epa.gov/ttn/atw/utility/revised_resource_adequacy_tsd.pdf); Department of Energy (2011). "Resource Adequacy Implications of Forthcoming EPA Air Quality Regulations" [http://energy.gov/sites/prod/files/2011%20Air%20Quality%20Regulations%20Report\\_A\\_120911.pdf](http://energy.gov/sites/prod/files/2011%20Air%20Quality%20Regulations%20Report_A_120911.pdf)

<sup>4</sup> GAO, EPA Regulations and Electricity: Better Monitoring by Agencies Could Strengthen Efforts to Address Potential Challenges (GAO-12-636) at 41 (July 2012).

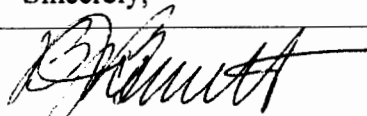
authorities that are responsible for grid planning and the assessment and mitigation of grid reliability concerns. We hold regularly scheduled meetings between the three federal agencies and the RTOs, with a primary focus on the four key regions most affected by MATS. In addition, we have participated jointly in engagement with other planning authorities, state regulatory agencies, and the North American Electric Reliability Corporation and the NERC-affiliated Regional Entities, to monitor and address reliability issues that may arise. These have been productive exchanges that provide information that will help the EPA, the DOE and FERC to anticipate potential concerns well in advance, to better target our outreach and engagement with key stakeholders, and to ensure that we are adequately prepared to address any reliability concerns that may arise.

Again, the EPA appreciates the GAO's review of these issues and the opportunity to review and respond to the GAO's final report. Going forward, we will continue to develop the joint efforts of the three agencies described above, consistent with the GAO recommendations. The agency remains committed to ensuring that our power sector rules are implemented in a manner that is flexible, cost-effective, and that maintains electric reliability.

If you have any questions, please contact me or your staff may call Christina Moody, in the EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-0260.

Sincerely,

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Barbara J. Bennett  
Chief Financial Officer

AL 14-000-9512



THE ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

APR - 9 2014

The Honorable Harold Rogers  
Chairman  
Committee on Appropriations  
U.S. House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

I am pleased to support the charter EPA Board of Scientific Counselors in accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. 2. The EPA Board of Scientific Counselors is in the public interest and supports the U.S. Environmental Protection Agency in performing its duties and responsibilities.

---

I am filing the enclosed charter with the Library of Congress. The EPA Board of Scientific Counselors will be in effect for two years from the date the charter is filed with Congress. After two years, the charter may be renewed as authorized in accordance with Section 14 of FACA (5 U.S.C. App. 2 § 14).

If you have any questions or require additional information, please contact me or your staff may contact Christina Moody in EPA's Office of Congressional and Intergovernmental Relations at [Moody.christina@epa.gov](mailto:Moody.christina@epa.gov) or (202) 564-0260.

Sincerely,

A handwritten signature in black ink, which appears to read "Gina McCarthy", is written over a horizontal line.

Gina McCarthy

Enclosure

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

---

**EPA BOARD OF SCIENTIFIC COUNSELORS**

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**1. Committee's Official Designation (Title):**

EPA Board of Scientific Counselors

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**2. Authority:**

The EPA Board of Scientific Counselors (BOSC) charter is renewed in accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2. The BOSC is in the public interest and supports the U.S. Environmental Protection Agency (EPA) in performing its duties and responsibilities.

**3. Objectives and Scope of Activities:**

The BOSC will provide advice and recommendations on all aspects (technical and management) of the Office of Research and Development's (ORD) research program. As appropriate, the BOSC will consult and coordinate its work with the Science Advisory Board.

The major objectives are to provide advice and recommendations on:

- a. ORD's research programs and research-management practices, and to recommend actions to improve research program quality, relevance, and performance, as well as program structure, scientific leadership, coordination/communication, and outcomes;
- b. ORD's program development, progress, and research program balance, which may include evaluation of multi-year plans and implementation of the ORD Strategic Plan;
- c. Use of peer review within ORD to sustain and enhance the quality of science in EPA;
- d. Scientific and management issues specific to ORD Offices, National Laboratories, and Centers; and
- e. ORD's human resources planning, such as scientist career development and rotational assignment programs, and the appropriate scope and design of training programs for environmental research professionals.



**4. Description of Committees Duties:**

The duties of the BOSC are solely to provide policy advice to EPA.

**5. Official(s) to Whom the Committee Reports:**

The BOSC will submit advice and recommendations and report to the EPA Administrator, through the Assistant Administrator for the Office of Research and Development, in consultation with the Administrator's Science Advisor.

---

**6. Agency Responsible for Providing the Necessary Support:**

The EPA will be responsible for financial and administrative support. Within EPA, this support will be provided by the Office of Research and Development.

**7. Estimated Annual Operating Costs and Work Years:**

The estimated annual operating cost of the BOSC is \$627,500 which includes 2.0 person-years of support.

**8. Designated Federal Officer:**

A full-time or permanent part-time employee of EPA will be appointed as the Designated Federal Officer (DFO). The DFO or a designee will be present at all meetings of the advisory committee and subcommittees. Each meeting will be conducted in accordance with an agenda approved in advance by the DFO. The DFO is authorized to adjourn any meeting when he or she determines it is in the public interest to do so, and will chair meetings when directed to do so by the official to whom the committee reports.

**9. Estimated Number and Frequency of Meetings:**

The BOSC expects to meet approximately two (2) to three (3) times a year. Meetings may occur approximately once every four (4) to six (6) months, or as needed and approved by the Designated Federal Officer (DFO). EPA may pay travel and per diem expenses when determined necessary and appropriate.

As required by FACA, the BOSC will hold open meetings unless the EPA Administrator determines that a meeting or a portion of a meeting may be closed to the public in accordance with 5 U.S.C. 552b(c). Interested persons may attend meetings, appear before the committee as time permits, and file comments with the BOSC.

**10. Duration and Termination:**

The BOSC will be examined annually and will exist until the EPA determines the committee is no longer needed. This charter will be in effect for two years from the date it is filed with Congress. After the initial two-year period, the charter may be renewed as authorized in accordance with Section 14 of FACA.

**11. Member Composition:**

The BOSC will be composed of approximately twenty (20) members who will serve as Special Government Employees (SGEs). In selecting members, EPA will consider candidates from the environmental scientific/technical fields, human health care professionals, academia, industry, public and private research institutes or organizations, and other relevant interest areas.

**12. Subgroups:**

~~The EPA, or the BOSC with EPA approval, may form BOSC subcommittees or workgroups for any purpose consistent with this charter. Such subcommittees or workgroups may not work independently of the chartered committee and must report their recommendations and advice to the chartered BOSC for full deliberation and discussion. Subcommittees or workgroups have no authority to make decisions on behalf of the chartered committee nor can they report directly to the Agency.~~

**13. Recordkeeping:**

The records of the committee, formally and informally established subcommittees, or other subgroups of the committee, will be handled in accordance with NARA General Records Schedule 26, Section 2 and EPA Records Schedule 181 or other approved agency records disposition schedule. Subject to the Freedom of Information Act, 5 U.S.C. 552, these records will be available for public inspection and copying, in accordance with the Federal Advisory Committee Act.

May 6, 2014

Agency Approval Date

May 6, 2014

GSA Consultation Date

                      
Date Filed with Congress

AL 14-001-3356



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

AUG 12 2014

OFFICE OF THE  
CHIEF FINANCIAL OFFICER

The Honorable Harold Rogers  
Chairman  
Committee on Appropriations  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

I am transmitting the U.S. Environmental Protection Agency's response to the May 2014 Government Accountability Office report entitled, *Federal Software Licenses: Better Management Needed to Achieve Significant Savings Government-wide* (GAO-14-413). The EPA prepared this response pursuant to 31 U.S.C. 720.

The EPA partially agrees with the GAO's assessment and acknowledges that there is work to be done in better managing software licenses for the agency. The EPA has a strong foundation to build its software license management program which will be based on identifying the most efficient and cost effective strategy that is implemented in an incremental approach over the years. Where appropriate, the EPA will centralize software procurements where cost saving or other efficiencies can be realized.

In the coming months, the EPA will begin assessing its existing automated tools, governance structures, and other federal agencies processes and policies in developing a comprehensive software license management program. In developing the agency's software license management program, the goal will be to gain a comprehensive understanding of employees' software needs, visibility in the usage and procurement of software, and to make informed procurement and maintenance decision to attain cost savings and efficiencies throughout the agency.

The responses below provide additional details to each of the GAO's assessment in how the EPA is, or plans on, addressing each recommendation.

**GAO Recommendation:**

To ensure the effective management of software licenses, we recommend that the Administrator of the Environmental Protection Agency develop an agency-wide comprehensive policy for the management of software licenses that addresses the weaknesses we identified.

**EPA Response:**

The EPA concurs with the GAO's recommendation for developing a comprehensive policy and procedures. The agency's current software management and privacy policy and procedures do not

incorporate all the elements recommended in the GAO assessment and will be considered as the policy and procedures are scheduled for review.

**GAO Recommendation:**

To ensure the effective management of software licenses, we recommend that the Administrator of the Environmental Protection Agency employ a centralized software license management approach that is coordinated and integrated with key personnel for the majority of agency software license spending and/or enterprise-wide licenses.

**EPA Response:**

The EPA's current software licenses management is decentralized, however over the past few years, the EPA has made significant efforts in consolidating major application software licenses at the enterprise level. The EPA centrally procures and manages enterprise-wide software licenses such as those used by all the agency employees such as Office 2013, Office365 (Exchange, Lync, SharePoint) or Adobe Connect. The agency's efforts to consolidate enterprise software procurements was the initial step in the EPA's software license management approach and is the foundation for which the software license program will be built on.

**GAO Recommendation:**

To ensure the effective management of software licenses, we recommend that the Administrator of the Environmental Protection Agency establish a comprehensive inventory of software licenses using automated tools for the majority of agency software license spending and/or enterprise-wide licenses.

**EPA Response:**

The EPA acknowledges that currently there is no one comprehensive inventory representing 80% of the agency's software license spending; however the agency does have an inventory list of software licenses that are managed at the enterprise level. The inventory provided to the GAO by the agency's Office of Technology Operations and Planning is a comprehensive list of software that are currently managed and maintained at the enterprise level. As the EPA further develops a software license management program, the agency will analyze its existing automated tools in determining which tools and systems can best be leveraged in developing and maintaining a comprehensive, automated inventory of software licenses.

**GAO Recommendation:**

To ensure the effective management of software licenses, we recommend that the Administrator of the Environmental Protection Agency regularly track and maintain a comprehensive inventories of software licenses using automated discovery and inventory tools and metrics.

**EPA Response:**

The EPA agrees with the GAO's assessment. In the coming months the EPA will look at its existing systems and tools to determine a cost effective solution and frequency for managing and tracking software license installation.

**GAO Recommendation:**

To ensure the effective management of software licenses, we recommend that the Administrator of the Environmental Protection Agency analyze agency-wide software license data, such as costs, benefits, usage, and trending data, to identify opportunities to reduce costs and better inform investment decision making.

**EPA Response:**

The EPA concurs with the GAO's recommendation. An aspect of the EPA's software license management program will be to look at the existing organizational structures in determining or establishing the appropriate organizational body that will be responsible for reviewing, analyzing and determining which software applications can be consolidated at the enterprise level for cost savings to be realized.

**GAO Recommendation:**

To ensure the effective management of software licenses, we recommend that the Administrator of the Environmental Protection Agency provide software license management training to appropriate agency personnel addressing contract terms and conditions, negotiations, laws and regulations, acquisition, security planning and configuration management.

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**EPA Response:**

The EPA disagrees with the GAO's assessment for training and believes that the agency has the proper training program in place to address this concern. Software license management training is already required by those engaged in performing these duties. The EPA requires that Contracting Officer Representatives on these contracts know about acquisition at the level required to be a COR, and they have specific technical knowledge sufficient for them to advise the Contracting Officer on those matters. The EPA believes no additional training is needed beyond the currently identified training. However, it should be noted, that the EPA is actively involved in developing and refining the Federal Acquisition Certification for Program and Project Managers certification, including the information technology specialization requirements.

If you have any further questions, please contact me or your staff may contact Christina Moody in the EPA's Office of Congressional and Intergovernmental Relations, by phone at (202) 564-0260, or by email at [moody.christina@epa.gov](mailto:moody.christina@epa.gov).

Sincerely,



Maryann Froehlich  
Acting Chief Financial Officer

AL 15-000-0739

THE ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460



OCT 17 2014

The Honorable Harold Rogers  
Chairman  
Committee on Appropriations  
U.S. House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

I am pleased to support the charter Clean Air Act Advisory Committee in accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. 2. The Clean Air Act Advisory Committee is in the public interest and supports the U.S. Environmental Protection Agency in performing its duties and responsibilities.

I am filing the enclosed charter with the Library of Congress. The Clean Air Act Advisory Committee will be in effect for two years from the date the charter is filed with Congress. After two years, the charter may be renewed as authorized in accordance with Section 14 of FACA (5 U.S.C. App. 2 § 14).

If you have any questions or require additional information, please contact me or your staff may contact Christina Moody in EPA's Office of Congressional and Intergovernmental Relations at [Moody.christina@epa.gov](mailto:Moody.christina@epa.gov) or (202) 564-0260.

Sincerely,

A handwritten signature in black ink, appearing to read "Gina McCarthy", is written over a horizontal line.

Gina McCarthy

Enclosure

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**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY CHARTER**

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**CLEAN AIR ACT ADVISORY COMMITTEE**

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**1. Committee's Official Designation (Title):**

Clean Air Act Advisory Committee

**2. Authority:**

This charter renews the Clean Air Act Advisory Committee (CAAAC) in accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App.2. The CAAAC is in the public interest and supports the Environmental Protection Agency (EPA) in performing its duties and responsibilities under the Clean Air Act Amendments of 1990.

**3. Objectives and Scope of Activities:**

The CAAAC will provide advice, information and recommendations on policy and technical issues associated with implementation of the Clean Air Act Amendments of 1990 (the Act). These issues include the development, implementation, and enforcement of programs required by the Act, with the exception of the provisions of the Act that address acid rain. The programs falling under the purview of the committee include those related to the National Ambient Air Quality Standards, emissions from vehicles and vehicle fuels, greenhouse gas emissions, air toxics, permitting and collecting fees, and other compliance authorities. The CAAAC may advise on issues that cut across several program areas.

The major objectives are to provide advice and recommendations on:

- a. Approaches for new and expanded programs, including those using innovative technologies and policy mechanisms to achieve environmental improvements.
- b. The potential health, environmental, and economic effects of Clean Air Act programs on the public, the regulated community, State and local governments, and other Federal agencies.
- c. The policy and technical contents of proposed major EPA rulemaking and guidance required by the Act in order to help effectively incorporate appropriate outside advice and information.
- d. The integration of existing policies, regulations, standards, guidelines, and procedures into programs for implementing requirements of the Act.

4. **Description of Committees Duties:**

The duties of the CAAAC are solely to provide advice to EPA.

5. **Official(s) to Whom the Committee Reports:**

The CAAAC will submit advice and recommendations and report to the EPA Administrator, through the Office of Air and Radiation.

6. **Agency Responsible for Providing the Necessary Support:**

The EPA will be responsible for financial and administrative support. Within the EPA, this support will be provided by the Office of Air and Radiation.

7. **Estimated Annual Operating Costs and Work Years:**

The estimated annual operating cost of the CAAAC is \$350,000, which includes 1.5 person-years of support.

8. **Designated Federal Officer:**

A full-time or permanent part-time employee of EPA will be appointed as the Designated Federal Officer (DFO). The DFO or a designee will be present at all meetings of the advisory committee and subcommittees. Each meeting will be conducted in accordance with an agenda approved in advance by the DFO. The DFO is authorized to adjourn any meeting when he or she determines it is in the public interest to do so, and will chair meetings when directed to do so by the official to whom the committee reports.

9. **Estimated Number and Frequency of Meetings:**

The CAAAC expects to meet approximately two to three times per year. Meetings may occur approximately once every four to six months or as needed and approved by the DFO. EPA may pay travel and per diem expenses when determined necessary and appropriate.

As required by FACA, the CAAAC will hold open meetings unless the EPA Administrator determines that a meeting or a portion of a meeting may be closed to the public in accordance with 5 U.S.C. 552b(c). Interested persons may attend meetings, appear before the committee as time permits, and file comments with the CAAAC.

10. **Duration and Termination:**

The CAAAC will be examined annually and will exist until the EPA determines the committee is no longer needed. This charter will be in effect for two years from the date it is filed with Congress. After this period, the charter may be renewed as authorized in accordance with Section 14 of FACA.



**11. Member Composition:**

The CAAAC will be composed of approximately forty (40) members who will serve as Representative members of non-federal interests, Regular Government Employees (RGEs), or Special Government Employees (SGEs). Representative members are selected to represent the points of view held by organizations, associations, or classes of individuals. In selecting members, EPA will consider candidates from business and industry, academic institutions, State, local and tribal governments, EPA officials, unions, public interest groups, environmental organizations and service groups.

**12. Subgroups:**

EPA, or the CAAAC with EPA's approval, may form CAAAC subcommittees or workgroups for any purpose consistent with this charter. Such subcommittees or workgroups may not work independently of the chartered committee and must report their recommendations and advice to the chartered CAAAC for full deliberation and discussion. Subcommittees or workgroups have no authority to make decisions on behalf of the chartered committee nor can they report directly to the Agency.

**13. Recordkeeping:**

The records of the committee, formally and informally established subcommittees, or other subgroups of the committee, will be handled in accordance with NARA General Records Schedule 26, Item 2 and EPA Records Schedule 181 or other approved agency records disposition schedule. Subject to the Freedom of Information Act, 5 U.S.C. 552, these records will be available for public inspection and copying, in accordance with the Federal Advisory Committee Act.

9/22/2014  
Agency Approval Date

10/1/2014  
GSA Consultation Date

\_\_\_\_\_  
Date Filed with Congress

AL 15-000-0740



THE ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

OCT 17 2014

The Honorable Harold Rogers  
Chairman  
Committee on Appropriations  
U.S. House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

I am pleased to support the charter Federal Insecticide, Fungicide, and Rodenticide Act Scientific Advisory Panel in accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. 2. The Federal Insecticide, Fungicide, and Rodenticide Act Scientific Advisory Panel is in the public interest and supports the U.S. Environmental Protection Agency in performing its duties and responsibilities.

I am filing the enclosed charter with the Library of Congress. The Federal Insecticide, Fungicide, and Rodenticide Act Scientific Advisory Panel will be in effect for two years from the date the charter is filed with Congress. After two years, the charter may be renewed as authorized in accordance with Section 14 of FACA (5 U.S.C. App. 2 § 14).

If you have any questions or require additional information, please contact me or your staff may contact Christina Moody in EPA's Office of Congressional and Intergovernmental Relations at [Moody.christina@epa.gov](mailto:Moody.christina@epa.gov) or (202) 564-0260.

Sincerely,

A handwritten signature in black ink, appearing to read "Gina McCarthy", is written over a horizontal line.

Gina McCarthy

Enclosure

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**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY CHARTER**

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**FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT  
SCIENTIFIC ADVISORY PANEL**

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**1. Committee's Official Designation (Title):**

Federal Insecticide, Fungicide, and Rodenticide Act Scientific Advisory Panel

**2. Authority:**

This charter renews the Federal Insecticide, Fungicide, and Rodenticide Act Scientific Advisory Panel (FIFRA SAP) in accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App.2. The FIFRA SAP is in the public interest and supports the U.S. Environmental Protection Agency (EPA) in performing its duties and responsibilities. The original Panel was created on November 28, 1975, pursuant to Section 25(d) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended by Public Law 94-140, Public Law 95-396, and Public Law 96-539. In accordance with this statute, the Panel terminated on September 30, 1981. It was reestablished by the Administrator pursuant to the Federal Advisory Committee Act (FACA) and Section 21(b) of FIFRA on April 25, 1983, and then reauthorized as a statutory committee by amendment to the FIFRA dated December 2, 1983 (Public Law 98-201). Under FIFRA (Public Law 98-201), the statutory Panel terminated on September 30, 1987. It was administratively reestablished on October 1, 1987 by the Administrator pursuant to FACA until reauthorized as a statutory Panel by amendment to the FIFRA, dated October 25, 1988 (Public Law 100-532). Section 104 of the Food Quality Protection Act of 1996 (Public Law 104-170) establishes a Science Review Board consisting of sixty scientists who shall be available to the Scientific Advisory Panel on an ad hoc basis to assist in reviews conducted by the Panel.

**3. Objectives and Scope of Activities:**

FIFRA SAP will provide comments, evaluations, and recommendations on pesticides and pesticide-related issues as to the impact on health and the environment of regulatory actions.

The major objectives are to provide comments, evaluations, and recommendations on:

- a. The impact on health and the environment of matters arising under Sections 6(b), 6(c) and 25(a) of FIFRA
- b. Analyses, reports and operating guidelines to improve the effectiveness and quality of scientific analyses made by EPA
- c. Analyses Guidelines to improve the effectiveness and quality of scientific testing and of data submitted to EPA
- d. Methods to ensure that pesticides do not cause "unreasonable adverse effects on the environment," as defined in Section 2 (bb) of FIFRA

- e. Major scientific studies (whether conducted by EPA or other parties) supporting actions under Sections 6(b), 6(c), and 25(a) of FIFRA
- f. Major pesticide and pesticide-related scientific studies and issues in the form of a peer review

4. **Description of Committees Duties:**

The duties of the FIFRA SAP are solely to provide advice to the EPA.

5. **Official(s) to Whom the Committee Reports:**

The FIFRA SAP will report to the EPA Administrator through the EPA's Assistant Administrator for the Office of Chemical Safety and Pollution Prevention (OCSPP).

6. **Agency Responsible for Providing the Necessary Support:**

The EPA will be responsible for financial and administrative support. Within the EPA, this support will be provided by the Office of Chemical Safety and Pollution Prevention (OCSPP).

7. **Estimated Annual Operating Costs and Person Years:**

The estimated annual operating cost of FIFRA SAP is \$1,940,000, which includes 7.0 person-years of support.

8. **Designated Federal Officer:**

A full-time or permanent part-time employee of the EPA will be appointed as the Designated Federal Officer (DFO). The DFO or a designee will be present at all meetings of the advisory committee and subcommittees. Each meeting will be conducted in accordance with an agenda approved in advance by the DFO. The DFO is authorized to adjourn any meeting when he or she determines it is in the public interest to do so, and will chair meetings when directed to do so by the official to whom the committee reports.

9. **Estimated Number and Frequency of Meetings:**

The FIFRA SAP expects to meet approximately six (6) to eight (8) times a year. Meetings may occur approximately every one and a half (1 ½) to two (2) months or as needed and approved by the DFO. EPA may pay travel and per diem expenses when determined necessary and appropriate.

As required by FACA, FIFRA SAP will hold open meetings unless the EPA Administrator determines that a meeting or a portion of a meeting may be closed to the public in accordance with 5 U.S.C. 552b(c). Interested persons may attend meetings, appear before the committee as time permits, and file comments with the FIFRA SAP.

**10. Duration and Termination:**

This charter will be in effect for two years from the date it is filed with Congress. After this two-year period, the charter may be renewed as authorized in accordance with Section 14 of FACA.

**11. Member Composition:**

As required by FIFRA, the FIFRA SAP will be composed of seven members, including the Chairperson, and members will be selected from nominees provided by the National Institutes of Health (NIH) and the National Science Foundation (NSF). Members will serve as Special Government Employees (SGE) or Regular Government Employees (RGE). In selecting members, EPA will consider candidates on the basis of their professional qualifications to assess the effects of pesticides on health and the environment. To the extent feasible, the panel membership will include representation of the following disciplines: toxicology, pathology, environmental biology, and related sciences (e.g., pharmacology, biotechnology, bio-chemistry, bio-statistics).

**12. Subgroups:**

The EPA, or FIFRA SAP with EPA's approval, may form FIFRA SAP subcommittees or workgroups for any purpose consistent with this charter. Such subcommittees or workgroups may not work independently of the chartered committee and must report their recommendations and advice to the chartered FIFRA SAP for full deliberation and discussion. Subcommittees or workgroups have no authority to make decisions on behalf of the chartered committee nor can they report directly to the Agency.

**13. Recordkeeping:**

The records of the committee, formally and informally established subcommittees, or other subgroups of the committee, will be handled in accordance with NARA General Records Schedule 26, Item 2 and EPA Records Schedule 181 or other approved agency records disposition schedule. Subject to the Freedom of Information Act, 5 U.S.C. 552, these records will be available for public inspection and copying, in accordance with the Federal Advisory Committee Act.

9/22/2014

Agency Approval Date

\_\_\_\_\_  
Date Filed with Congress

AL 12-000-1574



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

FEB - 3 2012

OFFICE OF THE  
CHIEF FINANCIAL OFFICER

The Honorable Harold Rogers  
Chairman  
Committee on Appropriations  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

I am transmitting the U.S. Environmental Protection Agency's response to the October 2011 Government Accountability Office report entitled, *Environmental Justice: EPA Needs to Take Additional Actions to Help Ensure Effective Implementation* (GAO-12-77). The EPA prepared this response pursuant to 31 U.S.C. 720.

We appreciate GAO's detailed review of the EPA's efforts to integrate environmental justice considerations into the agency's programs, policies, and activities, as well as the recommendations on how the agency can better integrate environmental justice considerations through Plan EJ 2014 implementation. The recommendations in this report are insightful and they are helpful as we implement Plan EJ 2014.

### **GAO Recommendation**

To ensure that the EPA continues to make progress toward the effective integration of environmental justice considerations into the agency's programs, policies, and activities, GAO recommends that the Administrator of the EPA direct the appropriate offices to take the following four actions:

Develop a clear strategy to define key environmental justice terms in order to help the agency establish a consistent and transparent approach for identifying potential communities with environmental justice concerns.

### **EPA Response**

The EPA does not concur with this recommendation. We agree with the GAO regarding the need for greater consistency in how overburdened communities are identified but we have progressed beyond the definition step. Our approach is to continue to develop and implement EJSCREEN – a nationally consistent EJ screening tool that identifies communities overburdened by pollution including those that are minority and low-income. The environmental and demographic information provided by EJSCREEN will promote consistency in identifying overburdened communities. Because it is a screening tool, other important information, e.g., community input, can be factored in to promote environmental justice in a variety of decisions. A working prototype of EJSCREEN is expected to be available internally in the Spring of 2012.

### **GAO Recommendation**

Conduct an assessment of the resources needed under its current plans to integrate environmental justice considerations throughout the agency to help ensure that the EPA's staffing and funding resources are sufficient to meet current environmental justice goals and future changes in workload, such as provision of training to support use of key tools and guidance and potential changes in funding levels.

### **EPA Response**

The EPA does not concur with this recommendation. Environmental justice is the responsibility of every program and region which is reflected in the leadership that the National Program Managers and Regions are taking in implementing Plan EJ 2014. The EPA will proactively monitor progress in meeting milestones and delivering products identified in each of the Plan EJ 2014 implementation plans. We currently track our progress through our strategic plan and will use an annual review and reporting process to modify the implementation plans to better reflect the need for training and other implementation support activities, as necessary. To conduct a separate assessment at this time would divert resources from our work unnecessarily.

### **GAO Recommendation**

Articulate clearly in its plans the roles and responsibilities of states and continue recently initiated outreach efforts to help ensure that states are meaningfully involved in ongoing environmental justice planning and the subsequent implementation of Plan EJ 2014.

### **EPA Response**

The EPA concurs with this recommendation. The EPA agrees that outreach to states and their meaningful involvement is important. Since our response to the draft report on September 8, 2011, the EPA has engaged states through a variety of organizations, including the Environmental Council of States, National Association of Clean Air Agencies, and the Association of State and Territorial Solid Waste Management Officials. Our outreach efforts have included regional state commissioner meetings, webinars, and conference calls with states. These activities are part of a comprehensive approach towards stakeholder engagement which includes federal interagency listening sessions and engagement with the Clean Air Act Advisory Committee, National Environmental Justice Advisory Committee, Local Government Advisory Committee, Science Advisory Board, and other federal advisory committees. The EPA welcomes and will continue to incorporate state perspectives regarding areas of interest to them, such as the agency's efforts to develop guidance and identify tools to enhance public participation and consider environmental justice issues in the permitting process. Notably, ECOS has convened a small group of state representatives to engage the EPA on the agency's environmental justice and permitting efforts. Through this process, the EPA will have the opportunity to hear the views of states regarding their roles and responsibilities. Our specific involvement of states has varied according to the nature of the work outlined in each Plan EJ 2014 implementation plan. The EPA appreciates the participation of states, which has resulted in strengthened implementation of Plan EJ 2014.

### **GAO Recommendation**

Develop performance measures for Plan EJ 2014 to provide the EPA managers with the information necessary to assess how effectively the agency is performing relative to its environmental justice goals and the effect of its overall environmental justice efforts on intended communities.

### **EPA Response**

The EPA concurs with this recommendation. The GAO's recommendation to develop performance measures that assist the EPA managers with effectively assessing the agency's performance relative to Plan EJ 2014 implementation goals is in line with planned agency efforts. The agency is working to develop and strengthen performance measures as well as develop other ways to ensure timely and effective implementation of the strategy. Some of the agency's effort to strengthen performance measures is outlined in the *FY 2011-2015 EPA Strategic Plan Cross-cutting Fundamental Strategy Working For Environmental Justice and Children's Health* FY 2012 Annual Action Plan. In 2012, the agency will work to enhance both its FY 2013 National Program Manager Guidance and FY 2014 Annual Planning and Budget process. In the FY 2013 National Program Manager Guidance Process, the Office of Air and Radiation, the Office of Water, the Office of Chemical Safety and Pollution Prevention, the Office of Solid Waste and Emergency Response, and the Office of Environmental Compliance and Assurance will work with the regions to include qualitative expectations for both headquarters and regions regarding incorporation of environmental justice into program initiatives and program activities. In addition, these five programs will develop environmental justice annual performance measures (with targets) for inclusion in the FY 2014 budget submission. These measures will describe environmental justice actions to be taken or characterize environmental or health conditions of overburdened communities. Finally, the EPA is monitoring the progress of Plan EJ 2014 through the use of milestones and deliverables. We will consider performance measures as key Plan EJ 2014 guidance and tools undergo final agency review.

Thank you for the opportunity to respond to this recommendation. If you have any questions, please contact me or your staff may call Christina Moody, in the EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-0260.

Sincerely,



Barbara J. Bennett  
Chief Financial Officer



AL 12-000-2896



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

FEB 17 2012

THE ADMINISTRATOR

The Honorable Harold Rogers  
Chairman  
Committee on Appropriations  
U.S. House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

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I am pleased to renew the charter of the Farm, Ranch, and Rural Communities Advisory Committee in accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. 2. The Farm, Ranch, and Rural Communities Advisory Committee is in the public interest and supports the U.S. Environmental Protection Agency in performing its duties and responsibilities.

I am filing the enclosed charter with the Library of Congress. The committee will be in effect for two years from the date the charter is filed with Congress. After two years, the charter may be renewed as authorized in accordance with Section 14 of FACA (5 U.S.C. App.2 § 14).

If you have any questions or require additional information, please contact me or your staff may contact Clara Jones in the EPA's Office of Congressional and Intergovernmental Relations at (202) 564-3701 or [jones.clara@epa.gov](mailto:jones.clara@epa.gov).

Sincerely,

A handwritten signature in black ink, which appears to read "Lisa P. Jackson", is written over a horizontal line.

Lisa P. Jackson

Enclosure

## UNITED STATES ENVIRONMENTAL PROTECTION AGENCY CHARTER

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### Farm, Ranch, and Rural Communities Advisory Committee

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1. **Committee's Official Designation (Title):**

Farm, Ranch, and Rural Communities Advisory Committee

2. **Authority:**

This charter renews the Farm, Ranch, and Rural Communities Advisory Committee (FRRCC) in accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2. The FRRCC is in the public interest and supports EPA in performing its duties and responsibilities.

3. **Objectives and Scope of Activities:**

The FRRCC is a policy-oriented committee that will provide policy advice, information, and recommendations to the Administrator on a range of environmental issues and policies that are of importance to agriculture and rural communities.

It is intended that the members of the committee will address specific topics of unique relevance to agriculture as identified by the Agricultural Counselor to the Administrator, in such a way as to provide thoughtful advice and useful insights to the Agency as it crafts environmental policies and programs that affect and engage agriculture and rural communities.

4. **Description of Committee's Duties:**

The duties of the FRRCC are solely to provide advice to EPA.

5. **Official(s) to Whom the Committee Reports:**

The FRRCC will report its policy advice and recommendations to the EPA Administrator through the Agricultural Counselor.

6. **Agency Responsible for Providing the Necessary Support:**

EPA's Office of Federal Advisory Committee Management and Outreach, Office of the Administrator will be responsible for financial and administrative support.

**7. Estimated Annual Operating Costs and Person-Years:**

The estimated annual operating cost of the FRRCC is \$500,000 which includes 2.0 person-years of support.

**8. Designated Federal Officer:**

A full-time or permanent part-time employee of EPA will be appointed as the DFO. The DFO or a designee will be present at all of the meetings of the advisory committee and subcommittees. Each meeting will be conducted in accordance with an agenda approved in advance by the DFO. The DFO is authorized to adjourn any meeting when he or she determines it is in the public interest to do so, and will chair meetings when directed to do so by the official to whom the committee reports.

**9. Estimated Number and Frequency of Meetings:**

FRRCC expects to meet approximately two (2) times a year. Meetings may occur approximately once every six (6) months or as needed and approved by the Designated Federal Officer (DFO). Meetings will generally be held in Washington, DC. EPA may pay travel and per diem expenses when determined necessary and appropriate.

As required by FACA, the FRRCC will hold open meetings unless the Administrator determines that a meeting or a portion of a meeting may be closed to the public in accordance with subsection c of section 552b of title 5, United States Code. Interested persons may attend meetings, appear before the committee as time permits, and file comments with the FRRCC.

**10. Duration and Termination:**

The FRRCC will be examined annually and will exist until the EPA determines that the Committee is no longer needed. This charter will be in effect for two years from the date it is filed with Congress. After this two year period, the charter may be renewed as authorized in accordance with Section 14 of FACA.

**11. Member Composition:**

The FRRCC will be composed of approximately twenty-five (25) members who will serve as Representative members of non-federal interests, Regular Government Employees (RGEs), or Special Government Employees (SGEs). Members are selected to represent the points of view held by specific organizations, associations, or classes of individuals. Individuals who are actively engaged in farming or ranching will be encouraged to apply. In selecting members, EPA will consider candidates from academia, industry (e.g., farm groups and allied industries), non-governmental organizations, and state, local, and tribal governments.

**12. Subgroups:**

EPA, or the FRRCC with EPA's approval, may form subcommittees or workgroups for any purpose consistent with this charter. Such subcommittees or workgroups may not work independently of the chartered Committee and must report their recommendations and advice to the chartered Committee for full deliberation and discussion. Subcommittees or workgroups have no authority to make decisions on behalf of the chartered committee nor can they report directly to the EPA.

**13. Recordkeeping:**

The records of the committee, formally and informally established subcommittees, or other subgroups of the committee, shall be handled in accordance with NARA General Records Schedule 26, Section 2 and EPA Records Schedule 181 or other approved agency records disposition schedule. Subject to the Freedom of Information Act, 5 U.S.C. 552, these records shall be available for public inspection and copying, in accordance with the Federal Advisory Committee Act.

January 24, 2012

Agency Approval Date

February 3, 2012

GSA Consultation Date

**FEB 17 2012**

Date Filed with Congress

AL 12-000-2939



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

FEB 24 2012

OFFICE OF THE  
CHIEF FINANCIAL OFFICER

The Honorable Harold Rogers  
Chairman  
Committee on Appropriations  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

I am transmitting the U.S. Environmental Protection Agency's response to the November 2011 Government Accountability Office report entitled, *Green Buildings: Federal Initiatives for the Nonfederal Sector Could Benefit from More Interagency Collaboration* (GAO-12-79). The EPA prepared this response pursuant to 31 U.S.C. 720.

The report specifically recommends the following action:

**GAO Recommendation**

To help assess the results of investments in individual federal initiatives to foster green building in the nonfederal sector, as well as their combined results, GAO recommended that the Secretaries of Energy and of Housing and Urban Development work with the Administrator of EPA in leading an effort with other agencies that are implementing green building initiatives to collaborate on identifying performance information, such as shared goals and common performance measures, for green building initiatives for the nonfederal sector. This effort should include, if necessary, an exploration of the need for additional legislative or executive authority, such as the authority to establish a coordinating entity (e.g., an interagency working group).

**EPA Response**

The EPA generally agrees with the GAO's findings, conclusions and recommendations. We believe that significant benefits could be achieved by identifying information on performance, such as shared goals and measures, for green building efforts in the nonfederal sector across federal agencies.


The agency has and will continue to pursue ways to enhance collaboration on issues related to greener building products and practices. For example, the EPA has shared management responsibilities for the Energy Star program with the Department of Energy and thereby encourages the purchase of energy efficient equipment and the associated reduction in greenhouse gas emissions. The EPA participation in the Interagency Sustainability Working Group chaired by the General Services Administration and the DOE is another example of fruitful collaboration across federal agencies. And, as you note, the Partnership for Sustainable Communities, composed of the Housing and Urban Development, the

Department of Transportation and the EPA has been an effective mechanism for collaboration on a number of grant and technical assistance issues.

Our long-standing intra-agency green building working group continues to be a productive forum to identify and pursue green building goals and objectives and to facilitate and share information across the EPA. The EPA has and will continue to collaborate with other federal agencies on activities related to the development of third-party voluntary consensus standards with such organizations as the International Code Council, the American Society of Heating, Refrigerating and Air-Conditioning Engineers and others. And finally, the EPA expects to continue to work with individual agencies to better incorporate energy efficiency, location efficiency, and other green building attributes into the fabric of their programs.

Thank you for the opportunity to respond to this recommendation. We look forward to helping the federal government refine and meet its goals to promote green building in the non-federal sector. If you have any questions, please contact me or your staff may call Christina Moody, in the EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-0260.

Sincerely,

A handwritten signature in black ink, appearing to read 'Barbara J. Bennett', written over a horizontal line.

Barbara J. Bennett  
Chief Financial Officer



AL 12-001-2513

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

AUG 10 2012

OFFICE OF THE  
CHIEF FINANCIAL OFFICER

The Honorable Harold Rogers  
Chairman  
Committee on Appropriations  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

I am transmitting the U.S. Environmental Protection Agency's response to the June 2012 Government Accountability Office report entitled, *Phosphate Mining: Oversight Has Strengthened, but Financial Assurances and Coordination Still Need Improvement* (GAO-12-505). The EPA prepared this response pursuant to 31 U.S.C. 720.

To ensure effective oversight of phosphate mining operations and reclamation and cleanup, the GAO made three recommendations to the Secretary of the Interior and one to the Administrator of the EPA.

**GAO Recommendation**

We recommend the Administrator of EPA ensure the agency complete its plan to assess whether corporate guarantees are an adequate financial mechanism, including giving due consideration to the experience of EPA Region 10 and BLM in using such assurances. If EPA determines that corporate guarantees are not an appropriate form of financial assurance, then their use should be prohibited in the financial assurance regulations that the agency expects to promulgate for the mining industry.

**EPA Response**

The EPA agrees with the GAO's recommendation. As stated in the EPA's April 20, 2012 response on the draft report, the agency is currently developing proposed regulations under Section 108(b) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) that would require financial responsibility for classes of facilities within the hardrock mining industry. As part of development of the proposed regulations, the EPA is evaluating the protectiveness and administrative cost of the use of a financial test by an owner or operator and by a corporate guarantor. The EPA is considering its experience in implementing financial responsibility requirements, including the financial test and corporate guarantee, as part of that evaluation. In addition, the EPA will consult with federal land managers, including the Department of the Interior's Bureau of Land Management (BLM), as the agency develops the proposed rule. These activities, we believe, are responsive to GAO's recommendation.

Thank you for the opportunity to respond to this recommendation. We appreciate the information and detailed feedback provided by the GAO concerning areas addressed in this audit. If you have any questions, please contact me or your staff may call Christina Moody, in the EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-0260.

Sincerely,

A handwritten signature in black ink, appearing to read 'B. Bennett', with a long horizontal flourish extending to the right.

Barbara J. Bennett  
Chief Financial Officer

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AL 12-001-5641



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

SEP 28 2012

OFFICE OF THE  
CHIEF FINANCIAL OFFICER

The Honorable Harold Rogers  
Chairman  
Committee on Appropriations  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

I am transmitting the U.S. Environmental Protection Agency's response to the May 2012 Government Accountability Office report entitled, *Nonpoint Source Water Pollution: Greater Oversight and Additional Data Needed for Key EPA Water Program* (GAO-12-335). The EPA prepared this response pursuant to 31 U.S.C. 720.

To help protect the quality of the nation's water resources, the GAO made three recommendations, two for the EPA and one for the United States Department of Agriculture.

**GAO Recommendation**

To strengthen the EPA's implementation of its responsibilities under the Clean Water Act's section 319 nonpoint source pollution control program, we recommend that the Administrator of the EPA take the following two actions:

- provide specific guidance to the EPA's 10 regional offices on how they are to fulfill their oversight responsibilities, such as how to review states' plans for project feasibility and criteria to ensure that funded projects have characteristics that reflect the greatest likelihood of effective implementation and tangible water quality results, and
- in revising section 319 guidelines to states, and in addition to existing statutorily required reporting measures, emphasize measures that (1) more accurately reflect the overall health of targeted water bodies (e.g., the number, kind, and condition of living organisms) and (2) demonstrate states' focus on protecting high-quality water bodies, where appropriate.

**EPA Response**

Currently, the EPA is undertaking a series of Section 319 Nonpoint Source Management Program reforms that align well with the GAO recommendations. In November 2011, the EPA completed the *National Evaluation of the Clean Water Act Section 319 Program* study<sup>1</sup>. Appendix C of this study outlines a number of potential section 319 program enhancements. We are moving forward this year

<sup>1</sup> <http://www.epa.gov/owow/NPS/pdf/319evaluation.pdf>

with several of these program revisions which are aimed at strengthening the strategic focus of state nonpoint source programs, providing more consistent review of state programs nationally, and improving our ability to document the progress and success of the section 319 program. We will be revising our (2003) *Nonpoint Source Program and Grants Guidelines for States and Territories* in November 2012<sup>2</sup> for use in fiscal year 2013 and beyond.

Additionally, as part of an Agency Water Quality Priority Goal for FY 2012-2013, the EPA has committed that 50 percent of states will revise their nonpoint source programs by September 30, 2013.

By November 2012, we will be providing guidance to states and the EPA regions on updating nonpoint source program plans. By March of 2013, the EPA will also provide guidance to the EPA regions on conducting annual progress determinations of states' nonpoint source programs each year, increasing national consistency in the conduct of these reviews.

The specific elements of the EPA's section 319 program reform efforts that respond to the GAO recommendations are described below.

(1) Provide Specific Guidance to EPA Regional Offices on Oversight

The GAO's first recommendation for the EPA is to provide guidance to the EPA regional offices on how they are to fulfill their oversight responsibilities. In response, the EPA will take the following actions.

- By November 2012, the EPA will provide guidance to the EPA regions and states on updating their nonpoint source program plans, *Key Components of an Effective State Nonpoint Source Management Program*. This guidance will provide more detailed information than the *Nonpoint Source Program and Grants Guidelines for States and Territories* on the recommended content of state nonpoint source management programs for states to consider when updating their programs. An updated, comprehensive state nonpoint source program is important so the EPA can ensure that section 319 funding, technical support and other resources are directed in an effective and efficient manner to support state efforts to address water quality issues on a watershed basis.
- EPA's revised *Nonpoint Source Program and Grants Guidelines for States and Territories* will include specific guidelines for states on updating their nonpoint source programs. For example, EPA expects to provide a timeframe for state nonpoint source management program updates. The *Key Components of an Effective State Nonpoint Source Management Program* guidance will be included as an appendix to the revised *Nonpoint Source Program and Grants Guidelines for States and Territories*.
- For use in FY 2013, the EPA will provide guidance by March 2013 to the EPA regions on conducting annual determinations of states' progress in implementing their nonpoint source programs.
- Based on the GAO's raising the issue of project selection practices, during FY 2013, the EPA will engage the states and the EPA regions to identify current project selection practices, assess whether there are best practices, and if so incorporate these into section 319 program operations as appropriate in FY 2013.

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<sup>2</sup> 68 FR 60653 <http://www.gpo.gov/fdsys/pkg/FR-2003-10-23/pdf/03-26755.pdf>

**(2) Review Section 319 Program Measures**


The GAO's second recommendation to the EPA is to emphasize measures that (1) more accurately reflect the overall health of targeted water bodies, and (2) demonstrate states' focus on protecting high quality water bodies, where appropriate. In response, the EPA will take the following actions.

- The current (2003) section 319 grant guidelines are focused on restoring impaired waters. While we expect that restoration of impaired waters will continue to be a key feature of the section 319 grant program, we are actively considering ways to provide greater emphasis on protecting high quality waters and will address this issue when we revise the grant guidelines.
- In FY 2013, the EPA will engage the EPA regions and states in an effort to either revise national program measures for the section 319 nonpoint source program, and/or more fully utilize current national water program measures to better track and report nonpoint source program successes. The EPA will consider ways to better measure incremental water quality improvements, as well as a way to allow states to demonstrate successes in protecting high quality and threatened water bodies.

Thank you for the opportunity to respond to this recommendation. We appreciate the information and detailed feedback provided by the GAO concerning areas addressed in this audit. If you have any questions, please contact me or your staff may call Christina Moody, in the EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-0260.

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Sincerely,



Barbara J. Bennett  
Chief Financial Officer

AL 13-000-7373



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JUL 26 2013

OFFICE OF THE  
CHIEF FINANCIAL OFFICER

The Honorable Harold Rogers  
Chairman  
Committee on Appropriations  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

I am transmitting the U.S. Environmental Protection Agency's response to the April 2013 Government Accountability Office report entitled, *Superfund: EPA Should Take Steps to Improve Its Management of Alternatives to Placing Sites on the National Priorities List* (GAO-13-252). The EPA prepared this response pursuant to 31 U.S.C. 720.

The GAO conducted this review to determine: (1) how the EPA addresses the cleanup of sites it has identified as eligible for the National Priorities List, (2) how the processes for implementing the Superfund Alternative approach and the National Priorities List approach compare, and (3) how the Superfund Alternative agreement sites compare with similar National Priorities List sites in completing the cleanup process.

The agency's Office of Solid Waste and Emergency Response and Office of Enforcement and Compliance Assurance worked closely with the GAO in providing information for this report. The EPA appreciates the information and detailed feedback provided by the GAO concerning areas addressed in this audit. The agency's responses to the recommendations included in the final report are provided below.

**GAO Recommendation**

To improve the Superfund program's management of sites with contamination that makes them eligible for the National Priorities List, including management of the Superfund Alternative approach and deferrals of cleanup oversight to other entities, the Administrator of EPA should provide guidance to EPA regions that defines each type of Other Cleanup Activity deferral and what constitutes adequate documentation for Other Cleanup Activity deferral and completion of cleanup.

**EPA Response**

The EPA agrees with the GAO's recommendation. The agency added more detail on Other Cleanup Activity tracking in its FY 2012 Superfund Program Implementation Manual but acknowledges more guidance is needed. The EPA plans to define each type of Other Cleanup Activity referral and specify

adequate documentation required for initiating and completing an Other Cleanup Activity referral in the FY 2014 Superfund Program Implementation Manual by March 31, 2014.

#### **GAO Recommendation**

To improve the Superfund program's management of sites with contamination that makes them eligible for the National Priorities List, including management of the Superfund Alternative approach and deferrals of cleanup oversight to other entities, the Administrator of EPA should develop a method for EPA headquarters to identify and track other sites with long-term cleanups under the Superfund program (i.e., those that are outside of the National Priorities List and Superfund Alternative approaches).

#### **EPA Response**

The EPA agrees with the GAO's recommendation and plans to analyze information at sites with long-term cleanups overseen by the agency that are not being addressed through National Priorities List listing or Superfund Alternative approach agreements. The EPA will use the analysis to develop a method to identify and track these sites by September 30, 2014.

#### **GAO Recommendation**

To improve the Superfund program's management of sites with contamination that makes them eligible for the National Priorities List, including management of the Superfund Alternative approach and deferrals of cleanup oversight to other entities, the Administrator of EPA should update EPA's written policies on Superfund Alternative agreement sites, including taking steps such as clarifying whether the Superfund Alternative approach is EPA's preferred approach for long-term cleanup of sites under the Superfund program and outside of the National Priorities List, specifying what documentation is sufficient to support the Hazard Ranking System score at Superfund Alternative agreement sites, and defining when the database code that identifies sites with Superfund Alternative agreements should remain in place.

#### **EPA Response**

The EPA agrees with the GAO's recommendation and plans to address each component of this recommendation in the FY 2014 Superfund Program Implementation Manual by March 31, 2014, including clarifying that the Superfund Alternative approach is generally the agency's preferred enforcement approach for Comprehensive Environmental Response, Compensation, and Liability Act non-National Priorities List sites that are National Priorities List-caliber, where feasible and appropriate.

#### **GAO Recommendation**

To improve the Superfund program's management of sites with contamination that makes them eligible for the National Priorities List, including management of the Superfund Alternative approach and deferrals of cleanup oversight to other entities, the Administrator of EPA should report performance information on the progress of cleanup at Superfund Alternative agreement sites in a manner that is equivalent to such reporting for National Priorities List sites.

**EPA Response**

The agency agrees with this recommendation as it pertains to reporting under the Government Performance and Results Act. The EPA plans to include progress at sites with Superfund Alternative approach agreements in the Superfund remedial program performance measures starting in FY 2014.

The EPA appreciates the significant effort that the GAO committed to this report. If you have any further questions, please contact me or your staff may call Christina Moody, in the EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-0260.

Sincerely,

A handwritten signature in black ink, appearing to read "Maryann Froehlich".

Maryann Froehlich  
Acting Chief Financial Officer

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AL-14-000-7390



THE ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

MAR 28 2014

The Honorable Harold Rogers  
Chairman  
Committee on Appropriations  
U.S. House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

I am pleased to support the charter renewal of the Human Studies Review Board in accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. 2. The Human Studies Review Board is in the public interest and supports the U.S. Environmental Protection Agency in performing its duties and responsibilities.

I am filing the enclosed charter with the Library of Congress. The Human Studies Review Board will be in effect for two years from the date the charter is filed with Congress. After two years, the charter may be renewed as authorized in accordance with Section 14 of FACA (5 U.S.C. App. 2 § 14).

If you have any questions or require additional information, please contact me or your staff may contact Christina Moody in EPA's Office of Congressional and Intergovernmental Relations at [Moody.christina@epa.gov](mailto:Moody.christina@epa.gov) or (202) 564-0260.

Sincerely,

A handwritten signature in black ink, appearing to read "Gina McCarthy", is positioned below the word "Sincerely,".

Gina McCarthy

Enclosure

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**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY CHARTER**

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**HUMAN STUDIES REVIEW BOARD**

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**1. Committee's Official Designation (Title):**

Human Studies Review Board

**2. Authority:**

This charter renews the Human Studies Review Board (HSRB) in accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2. This Committee was established in February of 2006 under the authority of 40 CFR 26.1603. The HSRB is in the public interest and supports the U.S. Environmental Protection Agency (EPA) in performing its duties and responsibilities.

**3. Objectives and Scope of Activities:**

The HSRB will provide advice, information, and recommendations on issues related to scientific and ethical aspects of human subjects research.

The major objectives are to provide advice and recommendations on:

- a. Research Proposals and Protocols;
- b. Reports of completed research with human subjects; and
- c. How to strengthen EPA's programs for protection of human subjects of research.

**4. Description of Committees Duties:**

The duties of the HSRB are solely to provide scientific or policy advice to EPA.

**5. Official(s) to Whom the Committee Reports:**

HSRB will report to the EPA Administrator through EPA's Science Advisor.

**6. Agency Responsible for Providing the Necessary Support:**

EPA will be responsible for financial and administrative support. Within EPA, this support will primarily be provided by the Office of the Science Advisor (OSA).



**7. Estimated Annual Operating Costs and Person Years:**

The estimated annual operating cost of HSRB is \$424,000, which includes 1.2 person-years of support.

**8. Designated Federal Officer:**

A full-time or permanent part-time employee of EPA will be appointed as the Designated Federal Officer (DFO). The DFO or a designee will be present at all meetings of the advisory committee and subcommittees. Each meeting will be conducted in accordance with an agenda approved in advance by the DFO. The DFO is authorized to adjourn any meeting when he or she determines it is in the public interest to do so, and will chair meetings when directed to do so by the official to whom the committee reports.

**9. Estimated Number and Frequency of Meetings:**

The Committee expects to meet approximately four (4) times a year. Meetings may occur approximately once every three (3) months or as needed and approved by the DFO. EPA may pay travel and per diem expenses when determined necessary and appropriate.

As required by FACA, HSRB will hold open meetings unless the EPA Administrator determines that a meeting or a portion of a meeting may be closed to the public in accordance with 5 U.S.C. 552b(c). Interested persons may attend meetings, appear before the Board as time permits, and file comments with the HSRB.

**10. Duration and Termination:**

This charter will be in effect for two years from the date it is filed with Congress. After this two-year period, the charter may be renewed as authorized in accordance with Section 14 of FACA.

**11. Member Composition:**

The HSRB will be composed of approximately fifteen (15) members who will serve as Special Government Employees (SGEs) or Regular Government Employees (RGEs). In selecting members, the EPA will consider candidates from the environmental scientific/technical fields, human health care professionals, academia, industry, public and private research institutes or organizations, other governmental agencies, and other relevant interest areas. The HSRB membership will include experts in relevant scientific or technical disciplines such as bioethics, biostatistics, human health risk assessment and human toxicology.

**12. Subgroups:**

EPA, or the HSRB with EPA's approval, may form HSRB subcommittees or workgroups for any purpose consistent with this charter. Such subcommittees or workgroups may not work independently of the chartered committee and must report their recommendations and advice to the chartered HSRB for full deliberation and discussion. Subcommittees or workgroups have no authority to make decisions on behalf of the chartered committee nor can they report directly to the Agency.

**13. Recordkeeping:**

The records of the Committee, formally and informally established subcommittees, or other subgroups of the Committee, will be handled in accordance with NARA General Records Schedule 26, Section 2 and EPA Records Schedule 181 or other approved agency records disposition schedule. Subject to the Freedom of Information Act, 5 U.S.C. 552, these records will be available for public inspection and copying, in accordance with the Federal Advisory Committee Act.

\_\_\_\_\_  
Agency Approval Date

**MAR 28 2014**

\_\_\_\_\_  
Date Filed with Congress

AL 14-000-7699



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OFFICE OF  
CIVIL RIGHTS

MAY 15 2014

The Honorable Harold Rogers  
Chairman  
Committee on Appropriations  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

I am pleased to send you the enclosed copy of the U.S. Environmental Protection Agency's Fiscal Year 2013 annual report prepared in accordance with Section 203 of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), Public Law 107-174.

This report provides information regarding the number of cases arising under the respective areas of law cited in the No FEAR Act where discrimination was alleged; the amount of money required to be reimbursed by the EPA to the Judgment Fund in connection with such cases; the number of employees disciplined for discrimination, retaliation, harassment or any other infractions of any provision of law referred to under the Act; an analysis of trends and knowledge gained; and accomplishments.

An identical letter has been sent to each entity designated to receive this report as listed in Section 203 of the No FEAR Act. The U.S. Attorney General, the Chair of the U.S. Equal Employment Opportunity Commission, and the Director of the U.S. Office of Personnel Management will also be sent a copy of the report.

If you have any questions, please contact me, or your staff may contact Christina J. Moody in the EPA's Office of Congressional and Intergovernmental Relations at [moody.christina@epa.gov](mailto:moody.christina@epa.gov) or (202) 564-0260.

Sincerely,

A handwritten signature in cursive script, reading "Velveta Golightly-Howell".

Velveta Golightly-Howell  
Director

Enclosure

OFFICE OF CIVIL RIGHTS

**U.S. ENVIRONMENTAL  
PROTECTION AGENCY**

Fiscal Year 2013

Annual Report to Congress  
Pursuant to the  
Notification and Federal Employee  
Antidiscrimination and Retaliation  
Act of 2002

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## **I. EXECUTIVE SUMMARY**

The U.S. Environmental Protection Agency (EPA or Agency) provides its Annual Report to Congress as required by Section 203 of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), Public Law 107-174. As required, this report includes information related to the number of cases in Federal court pending or resolved in fiscal year (FY) 2013 and, in connection with those cases, their disposition; reimbursement(s) to the Judgment Fund; and the number of employees disciplined and the nature of the disciplinary action taken.

During FY 2013, there were a total of 12 cases pending before Federal courts. Among these cases, there were 9 claims of violation of Title VII of the Civil Rights Act of 1964; 4 claims of violations of the Rehabilitation Act; 4 claims of violation of the Age Discrimination in Employment Act; one claim of violation of the Equal Pay Act, and one claim of violation of 5 USC 2302.

Of the 12 cases noted above, one was settled during the reporting period. The settlement involved a total payment of \$500, all of which was designated for the payment of attorney's fees. This settlement amount was reimbursed to the Judgment Fund.

Of the remaining 11 cases, 3 were dismissed with prejudice, 2 are currently pending decisions on dispositive motions, one is pending a decision before the U.S. Court of Appeals for the Third Circuit, one is under settlement negotiations, and the remaining cases are at the discovery stage in U.S. Federal District Courts.

## **II. BACKGROUND**

On May 15, 2002, Congress enacted the "Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002," or, as it is more commonly known, the No FEAR Act. One purpose of the Act is to "require that Federal agencies be accountable for violations of antidiscrimination and whistleblower protection laws." Public Law 107-174, Summary. In support of this purpose, Congress found that "agencies cannot be run effectively if those agencies practice or tolerate discrimination." Public Law 107-174, Title I, General Provisions, section 101(1).

Section 203 of the No FEAR Act requires that each Federal agency submit an annual Report to Congress not later than 180 days after the end of each fiscal year. Agencies must report on the number of Federal court cases pending or resolved in each fiscal year and arising under each of the respective areas of law specified in the Act in which discrimination or retaliation was alleged. In connection with those cases, agencies must report the status or disposition of the cases; the amount of money required to be reimbursed to the judgment fund; and the number of employees disciplined. Agencies must also report on any policies implemented related to appropriate disciplinary actions against a Federal employee who discriminated against any individual, or committed a prohibited personnel practice; any employees disciplined under such a policy for conduct inconsistent with Federal Antidiscrimination Laws and Whistleblower Protection Laws;

and an analysis of the data collected with respect to trends, causal analysis, and other information.

The Act imposes additional duties upon Federal agency employers intended to reinvigorate their longstanding obligation to provide a work environment free of discrimination and retaliation. The additional obligations contained in the No FEAR Act can be broken down into five categories:

- A Federal agency must reimburse the Judgment Fund for payments made to employees, former employees, or applicants for Federal employment because of actual or alleged violations of Federal employment discrimination laws, Federal whistleblower protection laws, and retaliation claims arising from the assertion of rights under those laws.
- An agency must provide annual notice to its employees, former employees, and applicants for Federal employment concerning the rights and remedies applicable to them under the employment discrimination and whistleblower protection laws.
- At least every two years, an agency must provide training to its employees, including managers, regarding the rights and remedies available under the employment discrimination and whistleblower protection laws.
- Quarterly, an agency must post on its public website summary statistical data pertaining to EEO complaints filed with the agency.

The President delegated responsibility to the Office of Personnel Management (OPM) for issuance of regulations governing implementation of Title II of the No FEAR Act. OPM published final regulations on the reimbursement provisions of the Act on May 10, 2006; final regulations to carry out the notification and training requirements of the Act were published on July 20, 2006; and the final regulations to implement the reporting and best practices provisions of the No FEAR Act on December 28, 2006. The Equal Employment Opportunity Commission (EEOC) published its final regulations to implement the posting requirements of Title III of the No FEAR Act on August 2, 2006. The EPA has prepared this report based on the provisions of the No FEAR Act in accordance with OPM and EEOC's final regulations.

### **III. DATA**

#### **a. Civil Cases**

Section 203(a)(1) of the No FEAR Act requires that agencies include in their Annual Report "the number of cases arising under each of the respective provisions of law covered by paragraphs (1) and (2) of section 201(a) in which discrimination on the part of such agency was alleged." Section 724.302 of OPM's final regulations on reporting and best practices clarifies section 203 (1) of the No FEAR Act stating that agencies report on the "number of cases in Federal Court [district and appellate] pending or resolved...arising under each of the respective provisions of the Federal Antidiscrimination laws and Whistleblower Protection Laws applicable to them...in which an employee, former Federal employee, or applicant alleged a violation(s) of these laws, separating data by the provision(s) of law involved."

During FY 2013, there were a total of 12 cases pending before Federal courts. Among these cases, there were 9 claims of violation of Title VII of the Civil Rights Act of 1964; 4 claims of violations of the Rehabilitation Act; 4 claims of violation of the Age Discrimination in Employment Act; one claim of violation of the Equal Pay Act, and one claim of violation of 5 USC 2302.

Of the 12 cases noted above, one was settled during the reporting period. The settlement involved a total payment of \$500, all of which was designated for the payment of attorney's fees. This settlement amount was reimbursed to the Judgment Fund.

Of the remaining 11 cases, 3 were dismissed with prejudice, 2 are currently pending decisions on dispositive motions, one is pending a decision before the U.S. Court of Appeals for the Third Circuit, one is under settlement negotiations, and the remaining cases are at the discovery stage in U.S. Federal District Courts.

**b. Reimbursement to the Judgment Fund**

During FY 2013, the Agency was required to reimburse the Judgment Fund \$500, all of which was designated for the payment of attorney's fees. This is \$174,500 less than the amount the Agency was required to reimburse to the Judgment Fund in FY 2012.

**c. Disciplinary Actions (5 C.F.R. § 724.302 (a)(3) & (5))**

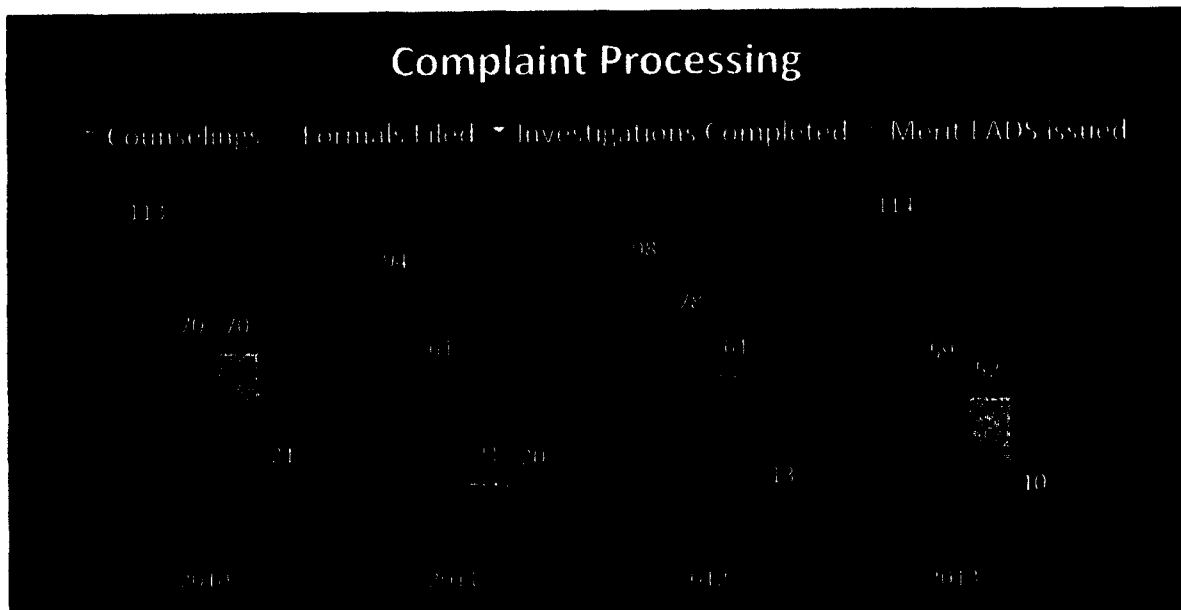
There were no employees disciplined in FY 2013 in connection with any cases described in paragraph (a) above, or for any other conduct that is inconsistent with Federal Antidiscrimination Laws and Whistleblower Protection Laws or for conduct that constitutes prohibited personnel practices.

**d. Final Year-End Data Posted Under Section 301(c)(1)(B)**

The final year-end data posted pursuant to section 301(c)(1)(B) of the No FEAR Act is included in Appendix 1.

The final year-end data indicates that during FY 2013, there was a 23% reduction in the number of formal complaints filed compared to FY 2012. In FY 2012, 76 formal complaints of discrimination were filed with the Agency. During FY 2013, there were only 59 new administrative complaints of discrimination filed by 56 employees or applicants for employment. Three Agency employees filed more than one complaint during the reporting period.





During FY 2013, EPA's Office of Civil Rights (OCR) procedurally dismissed 7 complaints. The average time to process a dismissal was 147 days, a 31% reduction from the FY 2012 processing average of 212 days pending prior to dismissal.

FY 2013 complaint totals can be found in their entirety at Appendix 1 of this report.

#### **e. Policy Description on Disciplinary Actions (5 C.F.R. § 724.302(a)(6))**

The FY 2013 Agency EEO policy addresses a variety of topics including the prohibition of discrimination in the workplace and a reminder to all employees that the agency will review any finding of discrimination and take appropriate disciplinary or corrective action. The EEO policy, as well as information on addressing harassment and reasonable accommodation, was discussed in the mandatory Successful Leaders program for all new Agency supervisors and in the new employee orientation sessions.

The FY 2013 EEO Policy can be found in its entirety at Appendix 3 of this report.

Additionally, EPA Order 3110.6B, *Adverse Actions*, EPA Order 3120.1B, *Conduct and Discipline*, EPA Order 3120.2, *Conduct and Discipline Senior Executive Service* and applicable collective bargaining agreements, provide guidance to managers about the type of disciplinary actions that may be taken, when appropriate, in response to a finding of discriminatory behavior or conduct. Such actions may range from informal corrective actions such as a written warning to more formal disciplinary actions such as a suspension without pay or removal.

EPA has an ongoing commitment to continue to include clear expectations EEO in performance standards for managers. EPA has maintained revised SES standards that not only focus on preventing discrimination in hiring activities and promoting merit systems principles, but also require senior leaders to be personally involved in leading and implementing EEO and civil rights initiatives consistent with applicable laws and executive orders. In addition, at the end of

every performance cycle, the Director of OCR, Performance Review Board members, and Executive Review Board members evaluate management self-assessments to ensure that the respective rating is an appropriate reflection of the accomplishments listed.

**f. No FEAR Act Training Plans (5 C.F.R. § 724.302 (a)(9))**

During FY 2013, we analyzed lessons learned from the EPA FY 2012 "*No FEAR Act Training Course*" that was hosted on the EPA eLearning site. The EPA eLearning site is an Internet-based training tool designed to support cross-functional training development needs for EPA employees. Based on input received from Agency employees regarding the 2012 training, we have contracted with Skillport to develop a more comprehensive training to include other areas such as discrimination based on gender stereotyping and the Genetic Information Nondiscrimination Act of 2008. We anticipate employees will be able to take the new training beginning Spring 2014. As with the 2012 NoFear Training, the eLearning site will be available for access 24 hours a day, 7 days a week, from work or home, allowing for maximum flexibility to meet the No FEAR Act training requirements. OCR, the Regional EEO Officers and the Headquarters Program Management Officers are planning to aggressively track and promote the successful completion of this training by individual offices, with a goal of reaching a 100% completion rate, Agency-wide, for the year.

**IV. ANALYSIS OF TRENDS, CAUSAL ANALYSIS AND PRACTICAL KNOWLEDGE GAINED THROUGH EXPERIENCE (5 C.F.R. § 724.302 (a)(7))**

At the conclusion of FY 2013, the bases of alleged discrimination most often raised were: (1) retaliation; (2) sex; and (3) age. The 59 EEO complaints filed at EPA in FY 2013 contained 29 allegations of retaliation, 26 allegations of sex discrimination, and 22 allegations of age discrimination. While retaliation and sex remain the top bases alleged in complaints filed for the second year in a row, these totals are not only significantly lower than in the previous year, they are the lowest in the previous 5 years worth of historical data. It should also be noted that retaliation and age are among the top three bases most frequently alleged in discrimination complaints throughout the entire Federal workforce.<sup>1</sup>

The data shows that the 0.31% of the Agency workforce of 17,002 employees that has filed complaints. This falls well below the last reported government-wide average of 0.53% of the workforce who filed complaints. At the time of reporting, government-wide totals beyond FY 2011 were not yet available.

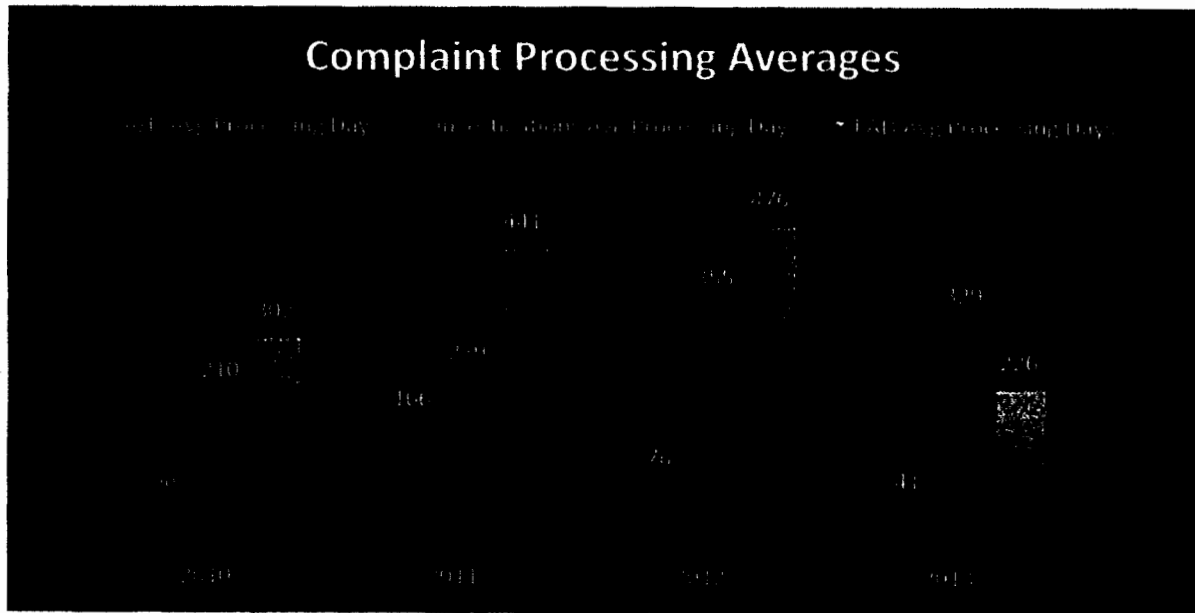
The Agency saw a 22% decrease in the number of complaints filed from FY 2012 to FY 2013. We attribute this in part to EPA's reinvigorated emphasis on the use of Alternative Dispute Resolution (ADR) to facilitate the ability of managers to hear about allegations of unlawful discrimination and to have an opportunity to resolve them at the lowest possible level. EPA managers and supervisors are required to participate, absent extenuating circumstances, as reiterated by the Administrator in her 2013 annual EEO Policy Statement. By certifying and training more EEO counselors and providing informational materials about the benefits of ADR in print and electronically, EPA's ADR participation rate during the informal process increased

<sup>1</sup> As reported in FY 2011 Report of the Federal Workforce. <http://www.eeoc.gov/federal/reports/fsp2011/index.cfm>

from 33.7% in FY 2012 to 49.41% in FY 2013. These efforts also increased EPA's rate of providing timely EEO counseling from 69.39% in FY 2012 to 92.11% in FY 2013. The Agency is currently developing an ADR program that would focus on increasing the number of cases in which ADR is offered in the formal complaint process which may increase our resolution rate. This program would continue to promote resolution at the lowest possible level by reengaging complainants and managers during the investigative stage of the complaint and attempt resolution prior to completing the investigation.

EPA continues to stress training as a method for ultimately reducing the number of Federal court judgments, awards, and formal complaints as managers and supervisors expand their knowledge of their responsibilities to promote equal employment opportunity.

EPA completed investigations for complaints pending during FY 2013 with an average processing time of 321 days, 31 days sooner than the Agency FY 2012 average of 352 days. The average age of FADs pending in FY 2013 was 261 days, almost half of our FY 2012 average of 533 days and the lowest the Agency has seen in the previous 4 years. As discussed in the FY 2012 NoFear Report, the Agency focused extensively on revamping and streamlining the investigative process and strategically alternating between the processing of older and newer matters to improve the proportion of cases adjudicated timely.



#### **V. ADJUSTMENTS TO BUDGET (5 C.F.R. § 724.302(a)(2)(ii))**

During FY 2012, the Agency was required to reimburse the Judgment Fund \$500 for the payment of attorney's fees.

#### **VI. ACTIONS PLANNED OR TAKEN TO IMPROVE COMPLAINT OR CIVIL RIGHTS PROGRAMS (5 C.F.R. § 724.302 (a)(7)(iv))**

In March 2011, Administrator Lisa P. Jackson appointed the Civil Rights Executive Committee, chaired by Deputy Administrator Bob Perciasepe, to recommend actions necessary for building a model civil rights program at the agency. After extensive review of the program, the Civil Rights Executive Committee submitted a final report, *Developing a Model Civil Rights Program for the Environmental Protection Agency*, to the Administrator outlining the agency's commitment to strengthening civil rights, equal employment opportunities, diversity in the workplace and revitalizing the agency's implementation of external civil rights laws. The Administrator approved the report and recommendations on April 13, 2012. On May 1, 2013, the Administrator approved the Agency Order which established the position of deputy civil rights official (DCRO) within each regional office and assistant administrator's office to serve as that office's primary point of accountability for assisting the OCR with effectively meeting the Agency's civil rights responsibilities and goals.

DCROs have broad oversight authority within their respective office or region for implementation of the civil rights program consistent with agency policy and directives, recognizing that offices or regions may need different staffing profiles for some functions. For example, Equal Employment Opportunity counselors are needed in every region, but at headquarters EEO counselors report to OCR rather than individual program offices. DCROs will identify and/or request adequate funding and resources for civil rights work and ensure their organizations have well-functioning policies, processes and management controls. Some of the activities that they will undertake include:

- Assuring that appropriate staff and expertise are available for their organizations to carry out an effective civil rights program including EEO counselors, alternate dispute resolution staff, special emphasis program managers and EEO officers.
- Developing and implementing the Equal Employment Opportunity Commission's Management Directive 715 Action Plans for their offices and regions that promote equal employment opportunity in a manner consistent with the agency's MD 715 Report, promote diversity and inclusion, and address other issues as required. Ensuring that the goals and objectives are communicated to subordinate management officials.
- Incorporating appropriate EEO and civil rights language into performance agreements as required for managers and as necessary for certain other positions.
- Facilitating informal EEO complaint resolution in conformance with Delegation 1-39, assuring the broad integration of well-functioning alternate dispute resolution approaches across the agency civil rights and employee relations activities and promoting the use of pre-complaint processes as a means of resolving EEO matters.

EPA's civil rights program has taken several other steps to strengthen EPA's commitment to civil rights, equal employment opportunity and diversity in the workplace:

- In FY 2013, OCR continued to make critical changes to its counseling program by offering monthly training teleconferences to all EEO Counselor's, organized and presented by OCR Employment Complaints Resolution Staff (ECRS) members to Agency EEO Officials. The timeliness and quality of EEO Counselor's Reports

- continues to show marked improvement, and the utilization and success rate for ADR have all significantly improved.
- Within the EPA, every member of the Senior Executive Service continues to have a performance standard related to equal employment opportunity in the workplace. Senior managers must outline the specific initiatives and actions they have personally undertaken and the results or effectiveness of those actions. At the end of every performance cycle, the Director of the Office of Civil Rights, Performance Review Board members, and Executive Review Board members review these self-assessments to verify that the respective rating for the EEO performance standard is a reflection of the accomplishments listed.
  - EPA has taken steps to improve the timeliness of EEO investigations. Of particular note is the new requirement for contractors to deliver investigations on schedule or receive reduced payment and/or terminate the contract.
  - All EPA investigators and counselors continue to receive the required annual training and/or refresher training in accordance with MD 110.
  - EPA works to comply with orders from administrative judges in a timely manner, and this is a factor that is included in the performance standard of the Assistant Director for the Office of Civil Rights, Employment Complaints Resolution Staff (ECRS). In addition, EPA has systems in place to ensure that the Agency initiates any monetary or other relief in a timely manner.
  - In FY 2013, OCR's ECRS attended extensive FAD writing training as well as training related to writing acceptance and dismissal letters, analyzing hostile work environment claims and conducting thorough investigations.
  - OCR also continues to post all No FEAR statistics on the OCR website on a quarterly basis.
  - Members of OCR management make presentations during the monthly new employee orientations to ensure that all new employees are notified of the rights and remedies applicable to them under the employment discrimination and whistleblower protection laws.
  - The Civil Rights Director and EEO Officials across the Agency participate in briefings, listening sessions, and brainstorming sessions to discuss EEO with managers, senior leaders and employees in order to identify specific action items that can continue to improve the Agency's EEO and civil rights program.

## APPENDIX 1

# Equal Employment Opportunity Data Posted Pursuant to the No Fear Act:

## EPA (and below)

For 4th Quarter 2013 for period ending September 30, 2013

Complaint Activity	Comparative Data					
	Previous Fiscal Year Data					2013Thru09-30
	2008	2009	2010	2011	2012	
Number of Complaints Filed	79	77	70	64	76	59
Number of Complainants	72	71	63	61	75	56
Repeat Filers	9	8	9	3	2	3

Complaints by Basis	Comparative Data					
	Previous Fiscal Year Data					2013Thru09-30
	2008	2009	2010	2011	2012	
<i>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints filed.</i>						
Race	42	33	39	25	39	21
Color	14	9	14	10	13	6
Religion	2	1	5	2	9	4
Reprisal	37	35	47	39	43	29
Sex	28	35	28	29	41	26
PDA	0	0	0	0	0	0
National Origin	10	6	14	10	13	12
Equal Pay Act	0	0	0	2	1	1
Age	28	37	28	21	35	22

Complaint Activity	Comparative Data					
	Previous Fiscal Year Data					2013Thru09-30
	2008	2009	2010	2011	2012	
Disability	16	25	21	24	23	18
Genetics	0	0	0	0	0	0
Non-EEO	1	0	0	1	8	7

Complaints by Issue	Comparative Data					
	Previous Fiscal Year Data					2013Thru09-30
<i>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints filed.</i>	2008	2009	2010	2011	2012	
Appointment/Hire	0	0	2	1	5	5
Assignment of Duties	12	6	18	12	11	5
Awards	4	2	6	2	5	0
Conversion to Full-time	1	0	0	0	2	0

#### Disciplinary Action

Demotion	1	0	0	0	0	0
Reprimand	3	3	3	3	2	3
Suspension	0	2	2	3	2	4
Removal	0	1	0	1	2	0
Other	0	0	3	2	4	2
Duty Hours	0	0	1	3	3	2
Evaluation Appraisal	17	9	14	11	21	9
Examination/Test	0	0	0	1	0	0

#### Harassment

Non-Sexual	30	36	35	30	30	22
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Complaints by Issue	Comparative Data					
	Previous Fiscal Year Data					2013Thru09-30
	2008	2009	2010	2011	2012	
<i>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints filed.</i>						
Sexual	1	0	1	1	1	2
Medical Examination	0	0	0	0	0	0
Pay (Including Overtime)	5	2	3	4	4	1
Promotion/Non-Selection	28	24	24	18	25	9
Reassignment						
Denied	1	0	4	3	2	0
Directed	2	2	6	1	4	2
Reasonable Accommodation	3	6	2	8	7	8
Reinstatement	0	0	0	0	0	0
Retirement	0	1	0	0	1	0
Termination	4	7	4	9	5	4
Terms/Conditions of Employment	11	8	16	10	18	10
Time and Attendance	13	7	6	6	17	6
Training	6	7	6	4	10	2
Other	0	0	0	0	7	3
Comparative Data						
Processing Time	Previous Fiscal Year Data					2013Thru09-30
	2008	2009	2010	2011	2012	
Complaints pending during fiscal year						
Average number of days in investigation	205.84	217.32	214.40	236.82	352.31	320.77



Complaints by Issue		Comparative Data					
		Previous Fiscal Year Data					2013Thru09-30
<i>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints filed.</i>		2008	2009	2010	2011	2012	
Average number of days in final action	261.40	192.96	171.29	398.16	318.42	147.95	
Complaint pending during fiscal year where hearing was requested							
Average number of days in investigation	215.97	211.79	204.77	242.18	347.38	325.31	
Average number of days in final action	44.22	125.75	0	154.67	134.36	55.45	
Complaint pending during fiscal year where hearing was not requested							
Average number of days in investigation	183.18	225.34	228.69	218.60	360.20	314.40	
Average number of days in final action	354.48	224.59	366.40	564.18	533.17	261.00	

Complaints Dismissed by Agency	Comparative Data					
	Previous Fiscal Year Data					2013Thru09-30
	2008	2009	2010	2011	2012	
Total Complaints Dismissed by Agency	1	2	3	3	10	7
Average days pending prior to dismissal	64	62	75	232	212	147

#### Complaints Withdrawn by Complainants

Total Complaints Withdrawn by Complainants	8	3	2	4	11	19
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Total Final Agency Actions Finding Discrimination	Comparative Data											
	Previous Fiscal Year Data										2013Thru09-30	
	2008		2009		2010		2011		2012			
	#	%	#	%	#	%	#	%	#	%		
Total Number Findings	0		0		0		0		1		0	
Without Hearing	0	0	0	0	0	0	0	0	1	100	0	0
With Hearing	0	0	0	0	0	0	0	0	0	0	0	0

Findings of Discrimination Rendered by Basis	Comparative Data											
	Previous Fiscal Year Data										2013Thru09-30	
	2008		2009		2010		2011		2012		#	%
<i>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints and findings.</i>	#	%	#	%	#	%	#	%	#	%		
<b>Total Number Findings</b>	0		0		0		0		1		0	
Race	0	0	0	0	0	0	0	0	0	0	0	0
Color	0	0	0	0	0	0	0	0	0	0	0	0
Religion	0	0	0	0	0	0	0	0	0	0	0	0
Reprisal	0	0	0	0	0	0	0	0	1	100	0	0
Sex	0	0	0	0	0	0	0	0	0	0	0	0
PDA	0	0	0	0	0	0	0	0	0	0	0	0
National Origin	0	0	0	0	0	0	0	0	0	0	0	0
Equal Pay Act	0	0	0	0	0	0	0	0	0	0	0	0
Age	0	0	0	0	0	0	0	0	0	0	0	0
Disability	0	0	0	0	0	0	0	0	0	0	0	0
Genetics	0	0	0	0	0	0	0	0	0	0	0	0
Non-EEO	0	0	0	0	0	0	0	0	0	0	0	0
<b>Findings After Hearing</b>	0		0		0		0		0		0	
Race	0	0	0	0	0	0	0	0	0	0	0	0
Color	0	0	0	0	0	0	0	0	0	0	0	0
Religion	0	0	0	0	0	0	0	0	0	0	0	0
Reprisal	0	0	0	0	0	0	0	0	0	0	0	0
Sex	0	0	0	0	0	0	0	0	0	0	0	0
PDA	0	0	0	0	0	0	0	0	0	0	0	0

14-000-7699

Findings of Discrimination Rendered by Basis	Comparative Data											
	Previous Fiscal Year Data										2013Thru09-30	
	2008		2009		2010		2011		2012			
	#	%	#	%	#	%	#	%	#	%	#	%
<i>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints and findings.</i>												
National Origin	0	0	0	0	0	0	0	0	0	0	0	0
Equal Pay Act	0	0	0	0	0	0	0	0	0	0	0	0
Age	0	0	0	0	0	0	0	0	0	0	0	0
Disability	0	0	0	0	0	0	0	0	0	0	0	0
Genetics	0	0	0	0	0	0	0	0	0	0	0	0
Non-EEO	0	0	0	0	0	0	0	0	0	0	0	0
<b>Findings Without Hearing</b>	0		0		0		0		1		0	
Race	0	0	0	0	0	0	0	0	0	0	0	0
Color	0	0	0	0	0	0	0	0	0	0	0	0
Religion	0	0	0	0	0	0	0	0	0	0	0	0
Reprisal	0	0	0	0	0	0	0	0	1	100	0	0
Sex	0	0	0	0	0	0	0	0	0	0	0	0
PDA	0	0	0	0	0	0	0	0	0	0	0	0
National Origin	0	0	0	0	0	0	0	0	0	0	0	0
Equal Pay Act	0	0	0	0	0	0	0	0	0	0	0	0
Age	0	0	0	0	0	0	0	0	0	0	0	0
Disability	0	0	0	0	0	0	0	0	0	0	0	0
Genetics	0	0	0	0	0	0	0	0	0	0	0	0
Non-EEO	0	0	0	0	0	0	0	0	0	0	0	0
<b>Findings of Discrimination</b>	<b>Comparative Data</b>											

Rendered by Issue	Previous Fiscal Year Data										2013Thru09-30	
	2008		2009		2010		2011		2012			
	#	%	#	%	#	%	#	%	#	%	#	%
Total Number Findings	0		0		0		0		1		0	
Appointment/Hire	0	0	0	0	0	0	0	0	0	0	0	0
Assignment of Duties	0	0	0	0	0	0	0	0	0	0	0	0
Awards	0	0	0	0	0	0	0	0	0	0	0	0
Conversion to Full-time	0	0	0	0	0	0	0	0	0	0	0	0
Disciplinary Action												
Demotion	0	0	0	0	0	0	0	0	0	0	0	0
Reprimand	0	0	0	0	0	0	0	0	0	0	0	0
Suspension	0	0	0	0	0	0	0	0	0	0	0	0
Removal	0	0	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0	0	0
Duty Hours	0	0	0	0	0	0	0	0	0	0	0	0
Evaluation Appraisal	0	0	0	0	0	0	0	0	0	0	0	0
Examination/Test	0	0	0	0	0	0	0	0	0	0	0	0
Harassment												
Non-Sexual	0	0	0	0	0	0	0	0	1	100	0	0
Sexual	0	0	0	0	0	0	0	0	0	0	0	0
Medical Examination	0	0	0	0	0	0	0	0	0	0	0	0
Pay (Including Overtime)	0	0	0	0	0	0	0	0	0	0	0	0
Promotion/Non-Selection	0	0	0	0	0	0	0	0	0	0	0	0
Reassignment												
Denied	0	0	0	0	0	0	0	0	0	0	0	0
Directed	0	0	0	0	0	0	0	0	0	0	0	0

14000-7699

Findings of Discrimination Rendered by Basis	Comparative Data											
	Previous Fiscal Year Data										2013Thru09-30	
	2008		2009		2010		2011		2012		#	%
<i>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints and findings.</i>	#	%	#	%	#	%	#	%	#	%		
Reasonable Accommodation	0	0	0	0	0	0	0	0	0	0	0	0
Reinstatement	0	0	0	0	0	0	0	0	0	0	0	0
Retirement	0	0	0	0	0	0	0	0	0	0	0	0
Termination	0	0	0	0	0	0	0	0	0	0	0	0
Terms/Conditions of Employment	0	0	0	0	0	0	0	0	0	0	0	0
Time and Attendance	0	0	0	0	0	0	0	0	0	0	0	0
Training	0	0	0	0	0	0	0	0	0	0	0	0
Other - User Defined	0	0	0	0	0	0	0	0	0	0	0	0
<b>Findings After Hearing</b>	0		0		0		0		0		0	
Appointment/Hire	0	0	0	0	0	0	0	0	0	0	0	0
Assignment of Duties	0	0	0	0	0	0	0	0	0	0	0	0
Awards	0	0	0	0	0	0	0	0	0	0	0	0
Conversion to Full-time	0	0	0	0	0	0	0	0	0	0	0	0
<b>Disciplinary Action</b>												
Demotion	0	0	0	0	0	0	0	0	0	0	0	0
Reprimand	0	0	0	0	0	0	0	0	0	0	0	0
Suspension	0	0	0	0	0	0	0	0	0	0	0	0
Removal	0	0	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0	0	0
Duty Hours	0	0	0	0	0	0	0	0	0	0	0	0

Findings of Discrimination Rendered by Basis	Comparative Data											
	Previous Fiscal Year Data										2013Thru09-30	
	2008		2009		2010		2011		2012		#	%
<i>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints and findings.</i>	#	%	#	%	#	%	#	%	#	%		
Evaluation Appraisal	0	0	0	0	0	0	0	0	0	0	0	0
Examination/Test	0	0	0	0	0	0	0	0	0	0	0	0
Harassment												
Non-Sexual	0	0	0	0	0	0	0	0	0	0	0	0
Sexual	0	0	0	0	0	0	0	0	0	0	0	0
Medical Examination	0	0	0	0	0	0	0	0	0	0	0	0
Pay (Including Overtime)	0	0	0	0	0	0	0	0	0	0	0	0
Promotion/Non-Selection	0	0	0	0	0	0	0	0	0	0	0	0
Reassignment												
Denied	0	0	0	0	0	0	0	0	0	0	0	0
Directed	0	0	0	0	0	0	0	0	0	0	0	0
Reasonable Accommodation	0	0	0	0	0	0	0	0	0	0	0	0
Reinstatement	0	0	0	0	0	0	0	0	0	0	0	0
Retirement	0	0	0	0	0	0	0	0	0	0	0	0
Termination	0	0	0	0	0	0	0	0	0	0	0	0
Terms/Conditions of Employment	0	0	0	0	0	0	0	0	0	0	0	0
Time and Attendance	0	0	0	0	0	0	0	0	0	0	0	0
Training	0	0	0	0	0	0	0	0	0	0	0	0
Other - User Defined	0	0	0	0	0	0	0	0	0	0	0	0
Findings Without Hearing	0		0		0		0		1		0	

Findings of Discrimination Rendered by Basis	Comparative Data											
	Previous Fiscal Year Data										2013Thru09-30	
	2008		2009		2010		2011		2012		#	%
<i>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints and findings.</i>	#	%	#	%	#	%	#	%	#	%		
Appointment/Hire	0	0	0	0	0	0	0	0	0	0	0	0
Assignment of Duties	0	0	0	0	0	0	0	0	0	0	0	0
Awards	0	0	0	0	0	0	0	0	0	0	0	0
Conversion to Full-time	0	0	0	0	0	0	0	0	0	0	0	0
Disciplinary Action												
Demotion	0	0	0	0	0	0	0	0	0	0	0	0
Reprimand	0	0	0	0	0	0	0	0	0	0	0	0
Suspension	0	0	0	0	0	0	0	0	0	0	0	0
Removal	0	0	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0	0	0
Duty Hours	0	0	0	0	0	0	0	0	0	0	0	0
Evaluation Appraisal	0	0	0	0	0	0	0	0	0	0	0	0
Examination/Test	0	0	0	0	0	0	0	0	0	0	0	0
Harassment												
Non-Sexual	0	0	0	0	0	0	0	0	1	100	0	0
Sexual	0	0	0	0	0	0	0	0	0	0	0	0
Medical Examination	0	0	0	0	0	0	0	0	0	0	0	0
Pay (Including Overtime)	0	0	0	0	0	0	0	0	0	0	0	0
Promotion/Non-Selection	0	0	0	0	0	0	0	0	0	0	0	0
Reassignment												
Denied	0	0	0	0	0	0	0	0	0	0	0	0



Findings of Discrimination Rendered by Basis	Comparative Data											
	Previous Fiscal Year Data										2013Thru09-30	
	2008		2009		2010		2011		2012			
<i>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints and findings.</i>	#	%	#	%	#	%	#	%	#	%	#	%
Directed	0	0	0	0	0	0	0	0	0	0	0	0
Reasonable Accommodation	0	0	0	0	0	0	0	0	0	0	0	0
Reinstatement	0	0	0	0	0	0	0	0	0	0	0	0
Retirement	0	0	0	0	0	0	0	0	0	0	0	0
Termination	0	0	0	0	0	0	0	0	0	0	0	0
Terms/Conditions of Employment	0	0	0	0	0	0	0	0	0	0	0	0
Time and Attendance	0	0	0	0	0	0	0	0	0	0	0	0
Training	0	0	0	0	0	0	0	0	0	0	0	0
Other - User Defined	0	0	0	0	0	0	0	0	0	0	0	0

Pending Complaints Filed in Previous Fiscal Years by Status	Comparative Data					
	Previous Fiscal Year Data					2013Thru09- 30
	2008	2009	2010	2011	2012	
Total complaints from previous Fiscal Years	70	90	117	111	119	136
Total Complainants	65	82	102	89	99	123
<b>Number complaints pending</b>						
Investigation	1	1	0	6	2	2
ROI issued, pending Complainant's action	0	0	1	0	4	3
Hearing	3	9	12	31	36	53
Final Agency Action	18	43	35	20	15	24
Appeal with EEOC Office of Federal Operations	15	14	15	18	22	27
Complaint Investigations	Comparative Data					
	Previous Fiscal Year Data					2013Thru09- 30
	2008	2009	2010	2011	2012	
Pending Complaints Where Investigations Exceed Required Time Frames	14	7	5	20	14	18

## **APPENDIX 2**

### **Anti-Harassment Policy**

#### **MEMORANDUM**

**FROM:** Administrator Lisa P. Jackson

**TO:** All EPA Employees

As a matter of policy, harassment of any kind will not be tolerated at the U.S. Environmental Protection Agency. When harassment is directed at an individual because of a lawfully protected basis and is sufficiently severe or pervasive that it creates a hostile work environment or takes the form of a tangible employment action, it is unlawful. It is EPA policy to ensure that appropriate measures are implemented to prevent harassment, either sexual or nonsexual, in the workplace and to correct harassing conduct before it becomes severe or pervasive. EPA policy also strictly prohibits any retaliation against an employee who reports a concern about workplace harassment or assists in any inquiry about such a report.

For the purposes of this policy, unlawful harassment is defined as any unwelcome verbal or physical conduct based on race; color; sex, including pregnancy and gender identity/expression; national origin; religion; age; prior protected EEO activity; protected genetic information; sexual orientation or status as a parent when:

- a) the behavior can reasonably be considered to adversely affect the work environment; or
- b) an employment decision affecting the employee is based upon the employee's acceptance or rejection of such conduct.

Sexual harassment can be either a form of harassment based on a person's sex that need not involve conduct of a sexual nature or harassment involving any unwelcome sexual advance, request for sexual favors or other verbal or physical conduct of a sexual nature when:

- a. submission to such conduct is made explicitly or implicitly a term or condition of an employee's job, pay or career;
- b. submission to or rejection of such conduct by an employee is used as a basis for career or employment decisions affecting that employee; or
- c. such conduct has the purpose or effect of unreasonably interfering with an employee's performance or creates an intimidating, hostile or offensive environment.

Sexual harassment need not involve members of the opposite sex and can be perpetrated by and against members of either sex.

Examples of workplace harassment include:

- Oral or written communications that contain offensive name calling, jokes, slurs, negative stereotyping, hostility or threats. This includes comments or jokes that are distasteful or targeted at individuals or members of the lawfully protected bases set forth above.
- Nonverbal conduct, such as staring, leering and giving inappropriate gifts.
- Physical conduct, such as assault or unwanted touching.
- Visual images, such as derogatory or offensive pictures, cartoons or drawings. Such prohibited images include those in hard copy or electronic form.

The EPA does not permit harassment by or against anyone in the workplace. This includes any employee, applicant for EPA employment, grantee, contractor, Senior Environmental Employment enrollee or Federal Advisory Committee Act member. Workplace harassment should be reported immediately by the affected person to a first-line supervisor, a higher-level supervisor or manager in her or his chain of command, the Office of Inspector General or Labor and Employee Relations staff, as appropriate. Supervisors, in consultation with their human resources or legal offices, must conduct prompt, thorough and impartial inquiries.

If necessary and to the extent possible, measures must be taken to safeguard the anonymity of employees who file complaints. If management, in consultation with legal counsel, determines that harassment has occurred, it must be corrected as soon as possible. Harassing conduct by EPA employees need not rise to the level of unlawful harassment for it to constitute misconduct subject to corrective or disciplinary action.

In addition, EPA employees or applicants for employment may also use the complaint process established by the Equal Employment Opportunity Commission to file a complaint of harassment based on race, color, sex, religion, national origin, age, disability, prior protected EEO activity and protected genetic information for individual redress. To invoke that process, EPA employees and applicants must contact an EEO counselor within 45 days of an alleged incident of harassment. Reporting harassment to a supervisor in accordance with the previous paragraph does not satisfy this requirement and does not invoke the EEOC's process. EPA employees or applicants for employment may also report harassment based on sexual orientation and status as a parent to the EPA Office of Civil Rights.

Should you have any questions or need additional information about this policy, please contact the EPA Office of Human Resources at (202) 564-4600 or the EPA Office of Civil Rights at (202) 564-7272.

## APPENDIX 3



### THE ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

DEC 18 2013

#### **MEMORANDUM**

**SUBJECT:** 2013 Equal Employment Opportunity Policy Statement

**FROM:** Gina McCarthy

A handwritten signature in dark ink, appearing to read "Gina McCarthy", is written over the name in the "FROM" field.

**TO:** All Employees

Fostering a diverse and inclusive work environment through equal employment is essential to our work and our service to the American people. I am proud to reaffirm the U.S. Environmental Protection Agency's commitment to equal employment opportunity in the workplace.

The EPA cannot and will not tolerate discrimination based on race; color; religion; sex, including pregnancy, sex stereotyping, gender identity or gender expression; national origin; sexual orientation; physical or mental disability; age; protected genetic information; status as a parent; marital status; political affiliation or retaliation based on previous EEO activity. The EPA also will not tolerate any type of harassment – either sexual or nonsexual – of any employee or applicant for employment. Employment decisions, including those related to hiring, training or awards, must be made in accordance with the merit-system principles contained in 5 U.S.C. § 2301.

I expect our management team to continue to provide first-class leadership in support of equal employment opportunities. I ask that EPA managers and employees take responsibility for treating each other with dignity and respect, reporting discriminatory conduct and preventing all types of discrimination, including harassment.

The EPA promotes the use of alternative-dispute-resolution methods to resolve workplace disputes or EEO complaints. Managers are reminded that their participation in agency-approved alternative-dispute-resolution efforts to resolve employee EEO complaints is required, absent extraordinary circumstances as determined by the Office of Civil Rights' director or designee.

Any employee, manager or applicant for employment who believes he or she has been subjected to discrimination has a right to seek redress within 45 calendar days of the alleged discriminatory event by contacting the EPA's Office of Civil Rights Employment complaints resolution staff at (202) 564-7272 or an EEO officer at the regional or laboratory level. The agency will review any finding of discrimination and, when necessary, take appropriate disciplinary or corrective action.

A professional, productive and inclusive workplace is essential to the EPA's mission to protect human health and the environment. Unlawful discrimination in the workplace, including retaliation and harassment, undermines our ability to achieve our agency's mission. I appreciate your shared commitment to equal opportunity at the EPA and look forward to continuing our work together.

This paper is printed with vegetable-based inks and is 100-percent postconsumer recycled material containing freemium recycled glass.